



# INDEPENDENT FIELD-SERVICE PROVIDER AGREEMENT Inspections & Preservation

This Independent Field Service Provider Agreement (“Agreement”) is entered into by and between Mortgage Specialists International, LLC, a Texas limited liability company (“MSI” or “the Company”), and the undersigned Field Service Provider (“Service Provider”). MSI and Service Provider may be referred to individually as a “Party”, and collectively the “Parties”. This Agreement will become effective upon execution by both Parties (the “Effective Date”) and it will remain in effect until January 31, 2019 (the “Termination Date”).

In consideration of the mutual representations, warranties, covenants, and agreements set forth herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, MSI and Service Provider agree as follows:

## A. BACKGROUND INFORMATION

1. MSI is in the business of providing various property-related services.
2. Service Provider is an independent business that specializes in performing various property-related services needed by MSI.
3. Service Provider represents and warrants to MSI that Service Provider is an independent business that possesses the specific knowledge and skills necessary to perform the various property-related services needed by MSI, and Service Provider understands that it is solely responsible in maintaining its knowledge on all current Laws and regulations pertaining to said services.
4. Service Provider covenants and warrants that the Services it completes for MSI will never exceed seventy percent (70%) of the overall volume of work its business completes.
5. It is the mutual desire of the Parties for Service Provider to work as an independent contractor for MSI and that Service Provider be retained on a job-by-job basis.
6. The Parties intend that this Agreement and Exhibits A, B, and C serve as the master agreement and govern the legal relationship of the Parties; while separate Work Orders that are provided for each individual job will provide information for that specific job. If there is ever any language in a Work Order that conflicts with the language of this Agreement, then the language of this Agreement will prevail.

## B. DEFINITIONS

1. **Affiliate.** Affiliate means any present or future entity that controls, is controlled by, or is under common control with MSI or MSI’s clients.
2. **Chargeback.** Chargeback means any dollar amount Service Provider is billed back.
3. **Confidential Information.** Confidential Information means information or data (1) held in confidence by a Party and supplied by or on behalf of such Party (“Disclosing Party”) to the other Party, or to an officer, director, employee, agent, contractor, or equivalent of any kind for the benefit of the other Party (“Receiving Party”), or (2) acquired by the Receiving Party in the course of performance under this Agreement. Confidential Information includes all information that a reasonable person should consider confidential in the context of its disclosure or due to the nature of the information itself, and may include technical and non-technical information, intellectual property rights, designs, techniques, plans, or other



information relating to any Services, future development, marketing or business plans, or financial or personnel matters relating to either Party or its present or future products, services, sales, suppliers, customers, employees, investors, or affiliates. For MSI, Confidential Information includes Customer Information, and unless otherwise specified in this Agreement, any information produced developed, collected, and compiled by Service Provider on MSI or an MSI client's behalf, or that is a by-product of Services.

4. **Consumers.** Consumers means individuals, regardless of whether they are customers of MSI's clients or any Affiliate, on whom MSI clients or any Affiliate has collected personally-identifiable data in the course of providing financial products or services, the individual applying for financial products or services, or as otherwise defined by Law.
5. **Customer Information.** Customer Information means information or data supplied by or on behalf of MSI or any Affiliate to Service Provider or Service Provider Personnel that relates to any (1) former, current, or prospective customer of MSI or any Affiliate, (2) Consumers, or (3) an employee, agent, or contractor of MSI or any Affiliate. Customer Information includes information of a financial, or medical nature, or information from which an individual's identity can be ascertained, either from the information itself or by combining the information with information from other sources, including public sources.
6. **Emergent Issue.** Emergent Issue means any condition that poses a risk that will cause further damage or deterioration to the property if it is not immediately addressed.
7. **Guidelines.** Guidelines means third-party rules, regulations, guidelines, letters, bulletins, and standards, including any publications described as "Frequently Asked Questions", which may be designated from time to time in writing by any governmental agency, government sponsored entity, investor, or insurer, including, but not limited to, Fannie Mae, Freddie Mac, or their successor entities, HUD, FHA, VA, or a private investor.
8. **Law(s).** Law(s) means all applicable laws, statutes, treatises, conventions, directives, regulations, ordinances, rules, including Home Owner's Association rules, and judicial decisions in courts or tribunals of competent jurisdiction that relate to this Agreement, or the Services provided by Service Provider or Service Provider's Personnel.
9. **Memo.** Memo means any communication sent or published by MSI.
10. **Personal Property.** Personal Property means any object that has monetary or sentimental value that is movable and not fixed permanently to one location. Examples of personal property include clothing, jewelry, vehicles, furniture, lawn equipment, boats, and collectibles.
11. **Service Provider Affiliates.** Service Provider Affiliates means Service Provider, or any present or future entity that controls, is controlled by, or is under common control with Service Provider.
12. **Service Provider Personnel.** Service Provider Personnel means Service Provider's employees, directors, agents, affiliates, partners, or subcontractors that perform any Services under this Agreement.
13. **Services.** Services means the services provided by Service Provider or Service Provider's Personnel under this Agreement.
14. **Technological Purpose.** Technological Purpose means anything that would allow a third party to access MSI or MSI's client's data or information on the system of record, or any other software or application.



15. **Work Order.** Work Order means a document provided by MSI that provides information pertaining to a specific job. Work Orders must be received through the MSI system of record. An email or phone call does not constitute a valid Work Order.

### C. GENERAL PROVISIONS

1. **Relationship between the Parties.** Service Provider is an independent contractor and not an employee of MSI, and nothing in this Agreement is intended to, or should be construed to create a partnership, agency, joint venture, or employment relationship. Each Party is independent of the other. Neither Party has the right to bind, enter into agreements or incur obligations or liabilities on behalf of the other. The employees of one Party shall not be considered employees of the other Party for any reason, including benefit plans, bonuses, income tax withholdings, unemployment benefits, disability benefits, employment taxes or worker's compensation insurance. Each Party shall be solely responsible for paying its own expenses, debts, accounts, obligations, liabilities, employee's worker compensation insurance and taxes related to this Agreement. Neither Service Provider nor Service Provider's Personnel will be subject to the direction or control by MSI except to the extent that such direction or control may be specifically required by applicable Law. Service Provider and Service Provider's Personnel will not hold themselves out as an employee or agent of MSI, or use the name of MSI in their business in any way.
- Non-Exclusive.** MSI's purchase of Services under this Agreement is on a non-exclusive basis. MSI reserves the right to engage the services of other independent contractors to provide similar services.
  - No Assurances by MSI.** Service Provider acknowledges that by entering into this Agreement MSI is not making any guaranty or assurances that MSI will utilize Service Provider's Services.
  - Conflict of Interest.** Service Provider will immediately notify MSI of any actual or apparent conflict of interest it has that may conflict with its obligations under this Agreement. Except as may be specified in a document duly executed by a proper party of MSI, neither Service Provider nor Service Provider's Personnel will pay or agree to pay any officer, director, employee, agent, or contractor of MSI or any of its Affiliates any fee, commission, percentage, or other consideration that is contingent upon or resulting from the award, execution, or renewal of all or any part of this Agreement or Work Order. To the best of Service Provider's knowledge, no officer, director, employee, or agent of MSI or any of its Affiliates has any ownership interest in Service Provider, and Service Provider will immediately notify MSI if such an ownership interest arises during the term of this Agreement.
2. **Service Provider's Personnel.** In order to meet its obligations under this Agreement, Service Provider may need to utilize certain Service Provider Personnel to perform Services. Service Provider has the right to hire and terminate Service Provider Personnel as it sees fit. However, Service Provider must abide by the non-assignment clause listed in this Agreement, and Service Provider's agreements with its Personnel must comply with the provisions in this Agreement.
- Service Provider Solely Liable.** It is Service Provider's duty to ensure that Service Provider's Personnel comply with all applicable terms in this Agreement. Service Provider acknowledges that it is solely liable for all Services performed by Service Provider's Personnel, and for any breach, claim, demand, losses, costs, and damages whatsoever caused or allegedly caused by Service Provider's Personnel.



- b. **MSI's Right to Deny.** MSI has the right to deny any of Service Provider's Personnel access to a property on which Services are needed, to MSI's system of record, or to any Confidential Information as defined in this Agreement.
  - c. **Background Checks.** Prior to the provision of Services under this Agreement, Service Provider and Service Provider's Personnel will be subject to background checks. All background checks must be in accordance with the background check requirements of MSI's clients. Service Provider and Service Provider's Personnel shall not perform any Services under this Agreement unless they have met the background screen requirements of MSI's clients.
  - d. **Legal Authorization to Complete Services.** Service Provider represents and warrants that Service Provider's Personnel providing Services under this Agreement are legally authorized to provide said Services, including working in the country in which the Services are being provided, and being in compliance with all applicable requirements, licenses, certificates, etc.
  - e. **Service Provider Offshoring Services.** Service Provider represents and warrants that it will not permit or facilitate the use of offshore third parties in the provision of Services without the express written consent of MSI, which may be withheld, conditioned, or withdrawn by MSI.
3. **Duration and Termination of Agreement.** This Agreement takes effect immediately as of the Effective Date and remains in full force and effect until the Termination Date. Notwithstanding the foregoing:
- a. **Termination without Cause.** This Agreement may be terminated at any time by either Party without cause by providing the other Party with thirty (30) days' written notice of intent to terminate. The thirty-day notice will commence upon the other Party's receipt of the notice.
  - b. **MSI's Termination for Cause.** This Agreement may be immediately terminated by MSI for any of the following reasons:
    - i. Material breach of any term or condition of this Agreement or any other good cause for termination, including without limitation any act or omission contrary to Law or constituting fraud, financial dishonesty or moral turpitude.
    - ii. Failure by Service Provider/Service Provider's Personnel to perform its Services in a safe and workmanlike manner free from any defects and deficiencies.
    - iii. Failure by Service Provider/Service Provider's Personnel to maintain all licensure required under this Agreement, or by Law.
    - iv. Failure by Service Provider/Service Provider's Personnel to abide by the terms of this Agreement pertaining to background checks.
  - c. **Service Provider's Termination for Cause.** This Agreement may be immediately terminated by Service Provider for MSI's material breach of this Agreement.
  - d. **Pending Work Orders Accepted Prior to Expiration or Termination.** Upon expiration or termination of this Agreement, Service Provider will remain liable for completing all Work Orders it accepted prior to the expiration or termination. However, upon termination of this Agreement, MSI has the discretion to cancel any Work Orders that have been accepted by Service Provider.
  - e. **Survival Terms.** Those provisions of this Agreement that would require that they survive the expiration or termination of this Agreement in order to give them full force and effect will survive the expiration or



Solutions. On Target. On Time.

termination of this Agreement for any reason, regardless of the date, cause or manner of such termination, and said provisions *include*:

- i. Invoicing and Documentation
- ii. Compensation and Chargebacks
- iii. Non-Solicitation and Non-Disparagement
- iv. Confidentiality and Non-Disclosure
- v. Indemnification
- vi. Lien Waiver
- vii. Dispute Resolution and Binding Arbitration

4. **Duties and Performance.** When MSI has Services to be performed, it will notify Service Provider by electronically sending a Work Order to Service Provider. Service Provider will ensure that it is able to receive inspection forms, Work Orders, and all other documentation necessary in order to perform Services in accordance with the appropriate Guidelines, or any other applicable mortgage servicing regulations, while adhering to all Laws. Under no circumstances will any Services be performed by Service Provider or Service Provider Personnel unless MSI has sent a Work Order to Service Provider for such Services, and Service Provider has accepted the Work Order in MSI's system of record.
- a. **Materials and Transportation.** Service Provider will, at its sole expense, provide all transportation, materials, supplies and equipment necessary to perform Services.
  - b. **Compliance with Client-Specific Requirements.** Service Provider will, at its own expense comply with any MSI client-specific requirements, such as, but not limited to technology, security, or processes.
  - c. **Storage of Personal Property.** If a Work Order permits or requires Service Provider/Service Provider's Personnel to remove Personal Property within a residence where a Work Order is being completed, then Service Provider or Service Provider's Personnel will remove and store the Personal Property. Nonetheless, Service Provider and Service Provider's Personnel will follow all Laws on removal and storage of Personal Property (i.e. how to store the Personal Property, whether an inventory needs to be completed, etc.). MSI will not be held responsible for any Personal Property removed and/or stored by Service Provider or Service Provider's Personnel. Service Provider will be solely responsible for any liabilities or costs associated with wrongful removal and/or storage of Personal Property.
  - d. **Modification of a Work Order.** In the event that a Work Order needs to be modified to appropriately address the current conditions of a property, written notice will be provided by the Party that proposes such modification(s), and after both Parties agree to said modification(s), a new Work Order will be created by MSI to reflect all agreed upon modifications and sent to Service Provider. Service Provider will then need to accept the new Work Order before proceeding with Services for said Work Order.
    - i. **Modification Due to Emergent Issue.** If a Work Order needs to be modified due to an Emergent Issue, then said modification is permitted if verbally agreed upon by both Parties over the phone.
    - ii. **Deviation from Work Orders.** Any unauthorized deviation from a Work Order by Service Provider or Service Provider's Personnel is a material breach of contract by Service Provider in which MSI may seek damages. The damages to which MSI may be entitled include, but are not limited to a



reduction in the amount due to Service Provider under this Agreement, or a reimbursement to MSI for monies previously paid to Service Provider. Service Provider will not be entitled to compensation for any deviations from a Work Order.

- e. **Timeframes for Performance.** Time is of the essence for every Service performed by Service Provider and Service Provider's Personnel. Service Provider and Service Provider's Personnel will follow all necessary timeframes stated in the Work Order. Service Provider and Service Provider's Personnel will complete and return all required documentation within the timeframe listed on the Work Order. A Work Order is not deemed complete until all conditions listed in this Agreement and the Work Order are complied with, and all required documentation is submitted to MSI.
- i. For Work Orders that are not completed within the timeframe specified on the Work Order, MSI reserves the right, upon written notice to Service Provider, to cancel said Work Order and reassign the Work Order to another independent contractor. A Work Order will still be deemed late even if the Work Order was not completed within the set timeframe because of a delay that was caused by third-party technology that Service Provider utilized.
  - ii. If Service Provider anticipates its inability to timely complete any Work Order, Service Provider will notify MSI no less than twenty-four (24) hours before the Work Order is to be completed. If MSI does not reassign the Work Order, then Service Provider will remain responsible for completing the Work Order and returning the results.
  - iii. If MSI cancels or reassigns a Work Order due to late or inadequate performance by Service Provider or Service Provider's Personnel, then MSI's duty to pay Service Provider for any Services rendered under that Work Order is terminated. In addition, Service Provider will be liable for any additional costs MSI incurs due to the cancellation or reassignment, which MSI may offset against what MSI owes Service Provider.
  - iv. MSI is not required to provide a cancellation notification to Service Provider if a situation arises where MSI's client cancels a Work Order the same day it is ordered.
  - v. If MSI receives a Work Order cancellation notification from a client, then MSI will pay Service Provider for the Work Order that was completed prior to the cancellation notification as long as Service Provider or Service Provider's Personnel submits its results/documentation within one (1) business day from the cancellation notification.
  - vi. Any potential Chargeback or damage to MSI caused by a delay from Service Provider or Service Provider's Personnel will be assessed to the Service Provider, pursuant to this Agreement. In the event Service Provider or Service Provider's Personnel fails to timely complete a Work Order and return documentation, Service Provider agrees to the following payment schedule, which reflects the hardship placed on MSI for untimely Services performed:
    - 1. For Work Orders received by MSI one (1) day past the due date listed in the Work Order, payment to Service Provider will be reduced by five percent (5%).
    - 2. For Work Orders received by MSI two to three (2-3) days past the due date listed in the Work Order, payment to Service Provider will be reduced by seven percent (7%).



3. For Work Orders received by MSI four (4) or more days past the due date listed in the Work Order, payment to Service Provider will be reduced by ten percent (10%).
- f. **Performance of Services.** Service Provider warrants that all Services performed by Service Provider and Service Provider's Personnel have been in a safe and workmanlike manner, and that all completed Services are free from any defects and deficiencies. Service Provider also warrants that it has used all precautions necessary for the safety and prevention of damage to the property on which it is performing the Services or any properties adjacent to the property, and for the safety and prevention of injury to individuals. Service Provider will be solely liable for any negligent acts committed by Service Provider or Service Provider's Personnel.
- g. **Consumer Interactions.** If a Work Order requires or permits Service Provider to have direct contact with any Consumers, then Service Provider agrees to comply with the following requirements:
  - i. **Complaints.** Unless otherwise specified, Service Provider will (1) notify MSI of any Consumer complaint received no later than one (1) business day after Service Provider or Service Provider's Personnel receives the complaint, (2) provide notice to the primary MSI liaison via email, (3) cooperate with MSI to permit MSI to timely investigate and resolve the complaint, and (4) provide MSI with any applicable information MSI requests.
  - ii. **Do Not Call/Solicit Requests.** Service Provider may receive verbal or written requests indicating that certain Consumers do not want to receive marketing material by mail, phone calls, emails, contest solicitations, or interactive ads. In such case, Service Provider will provide MSI with written notification of such requests no later than two (2) business days after Service Provider or Service Provider Personnel's receives the request.
5. **Invoicing and Documentation.** Service Provider or Service Provider's Personnel will provide MSI with the appropriate documentation and summary of Services completed, including but not limited to photo documentation, receipts, Cost Estimator estimates, condition reports (if applicable), or any other documentation as requested by MSI's client(s). In addition, Service Provider will provide an appropriate invoice that is generated through MSI's system of record for all Services that were completed per the Work Order.
  - a. **Invoice Disputes.** If there is any disagreement or discrepancy regarding an invoice submitted by Service Provider for Services completed, then the following timeframes control:
    - i. MSI will make all reasonable efforts to dispute the invoice within sixty (60) days from the date of the receipt of the invoice, and such disputes may be as to amount, timeliness of Services completed, or the documentation and quality of Services performed. Please note that future disputes may arise when MSI's files, or the files of MSI's clients are audited.
    - ii. Service Provider will have sixty (60) days from the date MSI issues a check for an invoice to dispute the amount paid or withheld, and upon the expiration of said timeframe Service Provider's right to dispute such invoice will be waived.
  - b. **Timeframe to Process Payments Made by MSI.** Service Provider will have six (6) months from the date MSI first issues a check for an invoice to cash or deposit said check. If the check itself becomes void prior to the expiration of the six-month time-period, then per a request from Service Provider, MSI may



reissue the check. Once the six-month timeframe has elapsed, the invoice for which MSI issued the check will become null and void, and MSI will no longer be liable for payment for said invoice.

6. **Compensation and Chargebacks.** Upon receipt of Service Provider's invoice and accompanying documentation of Services performed, MSI will compensate Service Provider per the Work Order after MSI has reviewed the Work Order, and determined that the completed Services substantially comply with MSI standards. All Services performed by Service Provider or Service Provider's Personnel, according to the specific Guidelines per the Work Order, will be discounted at the twenty-five percent (25%) default rate, at the agreed upon discount rate within this Agreement, or by a predetermined flat fee pricing schedule as provided in this Agreement or through Memos.
- a. **MSI's Review of Completed Work Orders.** Service Provider acknowledges that MSI reviews all Work Orders completed by Service Provider and Service Provider's Personnel, and that MSI conducts such review to ensure that Service Provider and Service Provider's Personnel have substantially complied with the standards listed below. If Service Provider or Service Provider's Personnel does not substantially comply with the standards for any Work Order, then MSI has the right to either withhold payment until Service Provider satisfies the standards, or to reassign the Work Order to another independent contractor. Service Provider and Service Provider's Personnel must substantially comply with the following standards:
- i. **Accuracy and compliance**
    - 1. Services were completed per the Work Order and applicable Guidelines.
    - 2. Services were billed correctly and per the applicable rate.
    - 3. There are supporting photos of all Services that were completed, bid, and invoiced.
  - ii. **Detail and thoroughness**
    - 1. Bids are detailed and dimensions have been provided.
    - 2. The completion results are explanatory and transparent in regards to the real condition of the property.
    - 3. The bid was reasonably priced (estimate software is used to check pricing when required).
  - iii. **Turn time**
    - 1. The Services were completed within the proper timeframes established in the Work Order.
    - 2. The Services were completed and documentation was returned to MSI within one working day of completion of the Services.
  - iv. **Responsiveness and communication**
    - 1. A follow up was not required for the documentation and summary of Services to be submitted to MSI.
    - 2. If a follow up was needed, then Service Provider or Service Provider's Personnel was reachable during the follow up process.
    - 3. Service Provider notified MSI of any potential delays prior to the due date listed on the Work Order.





4. If there was a risk of further damage occurring while Service Provider or Service Provider's Personnel completed Services, then Service Provider or Service Provider's Personnel called from site to ask for approval to limit further damage.
- b. **Default Rates for Inspections.** The default rates for inspections listed in Exhibit B are hereto incorporated into this Agreement. Service Provider will be compensated for inspections per the default rates in Exhibit B, unless the Parties mutually agree to alternative pricing.
- c. **Chargebacks.** Due to the nature of Chargebacks by MSI's clients, MSI may Chargeback Service Provider at any time for Services completed, regardless of MSI's previous payment to Service Provider for such Services performed. Upon MSI's notice of a Chargeback from its client(s), MSI will provide a timely written notification to Service Provider of said Chargeback. Chargebacks occur if Service Provider or Service Provider's Personnel fails to comply with the Guidelines or the client's requirements. If the option to correct the mistake is available and offered to Service Provider, then Service Provider will have 24 hours to begin resolving the issue to MSI's clients' satisfaction. Service Provider understands that MSI may make Chargebacks anytime, even after the expiration or termination of this Agreement.
7. **Force Majeure.** The Parties will not be liable for any failure of or delay in their performance under this Agreement for the period that such failure or delay is due to causes beyond their reasonable control, including but not limited to, acts of God, war, terrorism, riots, strikes, labor disputes, government orders, explosions, fires, or floods. Nonetheless, as reasonably possible, Service Provider must notify MSI as soon as Service Provider anticipates a delay or inability to follow this Agreement.
8. **Required Insurance for Service Provider and Service Provider Personnel.** Throughout the term of this Agreement, Service Provider and Service Provider's Personnel will maintain insurance in accordance with Exhibit A. The provisions listed in Exhibit A are hereto incorporated into this Agreement. Service Provider acknowledges that failure by Service Provider or Service Provider's Personnel to abide by Exhibit A is a material breach of this Agreement.
9. **Licensure.** Service Provider and Service Provider Personnel will maintain all applicable licensures for Services performed under this Agreement as is required by Law.
10. **Compliance with Law.** Service Provider and Service Provider's Personnel will, at its own expense, comply with all Laws and regulations. Performance of all Services completed by Service Provider or Service Provider's Personnel must comply with all Laws and regulations, and without limitation, will not violate any Laws or regulations governing Fair Lending, including, but not limited to the Fair Housing Act, the Equal Credit Opportunity Act, the Home Mortgage Disclosure Act, the Fair Debt Collection Practices Act, and the Community Reinvestment Act. Service Provider and Service Provider's Personnel will also observe and comply with all specific Laws concerning utility shut off and connection, water meters, and removal and storage of motor vehicles.
11. **Maintenance of Accurate Documentation.** Service Provider will ensure that MSI always has the most accurate and current documentation of insurance, driver's licenses, tax IDs, licenses, and any other documentation that may be required by MSI for Service Provider and Service Provider's Personnel. Failure to provide MSI with any required documentation, or to inform MSI in a timely manner of any change in status of documents or contact information is a material breach. MSI reserves the right to investigate the adequacy of insurance and licensing for Service Provider and Service Provider's Personnel. In the event MSI



determines that Service Provider or Service Provider's Personnel is not in compliance with the insurance and licensing required by this Agreement, or by Law, MSI may put Service Provider on hold to restrict future work assignments until Service Provider is in compliance. In addition, MSI may also suspend current Work Orders that Service Provider has already accepted until MSI has determined Service Provider and Service Provider's Personnel are in compliance. The determination of whether Service Provider and Service Provider's Personnel are compliant is at the sole discretion of MSI.

**12. Non-Solicitation, Non-Disparagement, and Non-Communication.**

- a. **Non-Solicitation.** During the term of this Agreement and for a period of one (1) year thereafter, neither Party will directly nor indirectly, solicit for employment any current employee of the other Party. During the term of this Agreement and for a period of one (1) year thereafter, Service Provider also agrees not to directly or indirectly solicit any current client of MSI, any client that it knows to be a potential client of MSI, or any Affiliate.
- b. **Mutual Non-Disparagement.** During the term of this Agreement and indefinitely thereafter, Service Provider and MSI mutually agree to forbear from making, causing to be made, publishing, ratifying, or endorsing any disparaging remarks, derogatory statements, or comments that could reasonably be expected to adversely affect the other Party. Furthermore, the Parties agree to forbear from making any public or non-confidential statement with respect to any claim or complaint against the other Party without the Party's consent.
- c. **Non-Communication with MSI's Clients.** During the term of this Agreement, Service Provider and Service Provider's Personnel will not directly or indirectly make any contact, whether written or verbal, with any client of MSI. However, Service Provider may contact a client of MSI upon receiving authorization from MSI (i.e. property site visits that would include the presence of an MSI client).

**13. Confidentiality and Non-Disclosure.** During this Agreement and indefinitely thereafter the Parties will not disclose, release, or otherwise make available the terms of this Agreement, or any Confidential Information that directly or indirectly relates to this Agreement, to any third party without prior written consent from the Disclosing Party. All information obtained by Service Provider is limited to services for MSI. Service Provider will not, at any time, use for its own benefit or for the benefit of any third party, any Confidential Information.

- a. **Restricted Disclosure.** Either Party may disclose Confidential Information and Customer Information to Affiliates of MSI, or each Party's accountants, or attorneys ("Third-Party Recipients") without the other Party's written consent if it is reasonably necessary in performing its duties under this Agreement. However, the Parties are responsible for any violation of this Agreement's confidentiality obligations by their respective Third-Party Recipients and will ensure that their Third-Party Recipients are aware of this Agreement's confidentiality obligation.
- b. **Confidential Information Exclusions.** This Agreement will not restrict any disclosure of Confidential Information by the Receiving Party if the Receiving Party can demonstrate that one of the following exclusions applies:
  - i. The Confidential Information was independently developed by the Receiving Party prior to receiving it without violating its obligations or any proprietary rights of the other Party.



Solutions. On Target. On Time.

- ii. The Confidential Information becomes publicly known (other than through unauthorized disclosure by the Receiving Party or its employees, agents, subcontractors, etc.), but this exclusion does not apply to Customer Information.
  - iii. The Confidential Information was already known to the Receiving Party prior to receiving it, without any obligation of confidentiality.
  - iv. The Confidential Information was rightfully received by the Receiving Party from a third party, without the obligation of confidentiality.
  - v. The Receiving Party becomes compelled by Law, including an order from a court, administrative agency, or governmental body, or a subpoena, to divulge Confidential Information, and Receiving Party immediately provided written notice to the other Party. In such a situation, the Receiving Party is required to reasonably cooperate with the other Party in seeking a protective order.
  - vi. The Confidential Information is disclosed by the Receiving Party in a judicial or legal proceeding involving the other Party relating to Services provided under this Agreement.
- c. **Return/Destruction of Information Upon Termination or Expiration of Agreement.**
- i. **Confidential Information.** In the event this Agreement expires and is not renewed, or is terminated, in whole or in part, each Party will return Confidential Information to the Disclosing Party and all associated copies, or at the Disclosing Party's directive, destroy the Confidential Information and provide to the Disclosing Party certificates evidencing the return or destruction. Nonetheless, both Parties may retain one (1) copy of the Disclosing Party's Confidential Information solely for archival, regulatory audit, disaster recovery, legal, or regulatory purposes, and neither Party will be required to search archived electronic backup files of its computer systems for Confidential Information in order to purge said Confidential Information from its archived files; provided however, both Parties must maintain its confidentiality under this Agreement and not use the Confidential Information for any other purpose.
  - ii. **Customer Information.** Service Provider will implement and monitor procedures to comply with the Fair and Accurate Credit Transactions Act of 2003 (Pub. L. No. 108-159, 117 Stat. 1952), as amended from time to time, and implement procedures concerning the safeguarding and disposal of Customer Information. Service Provider will return Customer Information to MSI, or destroy it, as instructed by MSI, but without violating any applicable Law or other applicable requirements. Service Provider will provide to MSI certificates evidencing the return or destruction. Upon MSI's request, Service Provider will provide MSI all information that MSI reasonably requests regarding the disposal of Customer Information as long as Service Provider can do so without compromising the security of Customer Information. Unless otherwise instructed by MSI's client(s), Service Provider may retain one (1) copy of MSI's Customer Information solely for archival, regulatory audit, disaster recovery, legal, or regulatory purposes, and will not be required to search archived electronic backup files of its computer systems for Customer Information in order to purge said Customer Information from its archived files; provided however, Service Provider must maintain its confidentiality under this Agreement and not use the Customer Information for any other purpose.
- d. **Breach of Confidentiality.** In the event that Service Provider or Service Provider's Personnel breaches the terms of this section of the Agreement, Service Provider will immediately notify MSI of said breach.



Service Provider acknowledges that any failure to follow this section of this Agreement is a material breach.

14. **Information Security.** Service Provider will ensure it has documented procedures and safeguards in place to reasonably and adequately mitigate any risks identified by the Parties relating to the Services under this Agreement and the protection of MSI's Confidential Information. Service Provider will safeguard against the destruction, loss, alteration, or unauthorized disclosure of or access to MSI's Confidential Information, including MSI's Confidential Information in the possession of Service Provider's Personnel. Service Provider warrants that at all times it will remain in compliance with all applicable Laws, including the Gramm Leach Bliley Act (GLBA).
- a. **Disclosure of Third Parties.** Service Provider must disclose any current or future third parties it utilizes for any Technological Purpose during the term of this Agreement. The authorization letter permitting MSI to directly communicate with said third parties, titled Exhibit C, is hereto incorporated into this Agreement.
  - b. **Encryption.** Service Provider will ensure that MSI's Confidential Information is encrypted while it is transmitted or while it is stored as it is required by Law, MSI, or MSI's Affiliates.
  - c. **Unauthorized Access to Confidential Information.** Service Provider will maintain documented procedures to detect and respond to any unauthorized access, possession, disclosure, use, or other security breach involving MSI's Confidential Information. Service Provider will notify MSI as is reasonably practicable, but in no event more than twenty-four (24) hours, of any unauthorized or attempted access, possession, disclosure, use, or knowledge of MSI's Confidential Information of which it becomes aware, including any material breach or potential material breach of security on a system, LAN, or telecommunications network that contains or processes MSI's Confidential Information. Field Servicer will also provide MSI, as soon as possible, all available details of the unauthorized or attempted possession, disclosure, use, or knowledge of MSI's Confidential Information, and use its best efforts to assist MSI in investigating and preventing the recurrence of such unauthorized access. Service Provider will cooperate with MSI to correct any unauthorized access, possession, disclosure, use, or other security breach, and will also cooperate in any litigation or investigation MSI deems necessary.
15. **Assessments and Audits.** Service Provider will timely comply with any requests from MSI and MSI's Affiliates for information or documentation related to this Agreement, or information that demonstrates that Service Provider and Service Provider's Personnel are in compliance, and that the Services are being provided in accordance with this Agreement. MSI and its Affiliates will strive to consolidate such requests so as to minimize disruption. Additionally, Service Provider and Service Provider's Personnel are subject to audits by MSI. Service Provider will comply and will require its Personnel to comply with all audits conducted by MSI. All aspects of Service Provider's business relating to this Agreement may be audited at MSI's request in order to confirm compliance with this Agreement. MSI will provide Service Provider no less than 5 business days' notice of its intent to audit Service Provider. Service Provider will provide all reasonably necessary assistance to MSI when MSI conducts an audit. Any questionnaires that MSI requests during an audit must be timely completed by Service Provider or Service Provider's Personnel.
16. **Indemnification.** Except to the extent prohibited by Law, Service Provider will defend, indemnify, and hold harmless MSI and its members, employees, agents, clients, independent contractors, and independent contractors' successors and assigns (collectively, "Indemnified Parties") from and against any and all



Solutions. On Target. On Time.

allegations, claims, actions, suits, demands, damages, liabilities, obligations, losses, settlements, costs, expenses, and judgments, including, without limitation, reasonable attorneys' fees, which arise out of, relate to, or result from any act or omission of Service Provider, or Service Provider's Personnel. Said duty of indemnification is explicitly applicable to the following non-exhaustive list:

- a. Any defect or deficiency in any Services performed by Service Provider or Service Provider's Personnel.
- b. Any negligent act of Service Provider or Service Provider's Personnel.
- c. Any failure by Service Provider or Service Provider's Personnel to comply with applicable Guidelines, Work Order instructions, or to act in a commercially reasonable manner.
- d. Any violation of Laws or regulations by Service Provider or Service Provider's Personnel.
- e. Liability for claims and liens of Service Provider, or Service Provider's Personnel. Service Provider will make every effort to pay or settle any lien dispute.

17. **Lien Waiver.** Except to the extent prohibited by Law, Service Provider acknowledges and agrees that no mechanic's lien, material man's lien, or other liens whatsoever will be filed on any property, and no claim will be maintained by Service Provider, Service Provider's Personnel, Service Provider's Affiliates, or any other third party related to Service Provider against MSI, MSI's Affiliates, or MSI's clients (i.e. the servicer of the loan), for or on account of work or labor performed, or to be performed, or for materials, machinery, equipment or other property of any kind furnished or to be furnished in relation to this Agreement. Service Provider will be liable for any liens on an MSI client property and any costs that MSI incurs from such liens that are filed by any Service Provider Personnel, supplier, or any third party of Service Provider.
18. **Nonwaiver of Claims.** The failure of either Party to enforce any provisions of this Agreement will not be deemed a waiver or limitation of that Party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.
19. **Non-assignment and Change in Ownership for Service Provider.** Service Provider shall not assign this Agreement nor any of the rights, interests or obligations under this Agreement to a third party, in whole or in part, by operation of Law or otherwise without the prior written consent of MSI. Additionally, Service Provider shall not factor or assign any sums claimed due under this Agreement without prior written consent of MSI. The only parties that have authority to provide consent under this Section on behalf of MSI are MSI employees that hold a title of Executive Vice President, President, or CEO. Any actual or attempted assignment or factor contrary to the terms of this Agreement is null and void. Any purported assignee shall be charged with knowledge of the prohibition of assignment or factor and deemed to have waived the right to receive such rights, interests, or obligations. If Service Provider changes ownership or form in anyway, then this Agreement will terminate immediately at the discretion of MSI, absent written consent by MSI prior to any such change. Any changes in Service Provider's management and or any significant impact to personnel must be communicated to MSI in a timely manner.
20. **Dispute Resolution and Binding Arbitration.** Any dispute, controversy, or claim related to, connected with, or arising out of this Agreement or a Work Order, which cannot be resolved by the Parties in good faith after making their best effort, is to be settled by binding arbitration in the state of Texas or another location mutually agreeable to both Parties. The arbitration must be conducted by a single arbitrator mutually agreed upon by both Parties, and the arbitration must be conducted on a confidential basis. Any decision or award as a result of any such arbitration proceeding will be in writing and will provide an explanation for all



conclusions of law and fact, and will include the assessment of costs, expenses, and reasonable attorneys' fees. Any such arbitration will also include a written record of the arbitration hearing.

21. **Remedies.** Service Provider acknowledges that the restrictions and provisions contained in this Agreement are reasonable and necessary for the protection of the business interests of MSI, its Affiliates, and its clients, and that any violation of these restrictions or provisions will cause substantial irreparable harm to MSI, its Affiliates, and its clients and, as a consequence thereof, Service Provider agrees that MSI is entitled, in addition to other remedies available at Law or equity, to preliminary and permanent injunctive relief to secure the specific performance of these restrictions and provisions to prevent a breach or contemplated breach of this Agreement. MSI reserves all remedies available at Law or equity. As a partial remedy to MSI, if Service Provider or Service Provider's Personnel violates this Agreement in any way, then MSI will be entitled to immediately stop making any additional payments under this Agreement and Service Provider will pay, in addition to all other remedies allowed by Law, equity, or this Agreement, all costs and expenses incurred by MSI as a result of such violation, including, without limitation, reasonable attorney fees. The forfeiture remedy is in addition to and does not displace any remedies available to MSI should Service Provider or Service Provider's Personnel breach any provision contained in this Agreement. Service Provider acknowledges that the existence of any claim or cause of action against MSI by Service Provider or Service Provider's Personnel, whether predicated upon this Agreement or otherwise, will not constitute a defense to the enforcement by MSI of the restrictions and provisions contained in this Agreement.
22. **Governing Law.** This Agreement will be governed by and construed in accordance with the Laws of the State of Texas regardless of any conflicts of legal principles.
23. **Severability.** If any term of this Agreement is to any extent illegal, otherwise invalid, or incapable of being enforced, such term will be excluded to the extent of such invalidity or unenforceability; all other terms hereof will remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term will be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term. If application of this Severability provision should materially and adversely affect the economic substance of the transactions contemplated hereby, the Party adversely impacted will be entitled to compensation for such adverse impact, provided the reason for the invalidity or unenforceability of a term is not due to serious misconduct by the Party seeking such compensation.
24. **Modification of Agreement.** This Agreement will not be modified except by written agreement signed by both Parties and dated subsequent to the Effective Date of this Agreement. The only parties that may sign and enforce a modification of this Agreement on behalf of MSI are MSI employees that hold a title of Executive Vice President, President, or CEO.
25. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes any prior agreements between the Parties, or understanding or representation of any kind relating to the subject matter of this Agreement. Exhibit A titled Required Insurance, Exhibit B titled MSI's Default Rates for Inspections, and Exhibit C titled Authorization to Communicate with Third Parties that are attached to this Agreement and referred to herein are hereby incorporated into this Agreement by reference.

[Signature Page to Follow]



**IN WITNESS WHEREOF**, Service Provider and MSI, by the signatures of their duly-authorized representatives below, intending to be legally bound, agree to all of the provisions of this Agreement.

**AGREED TO AND ACKNOWLEDGED BY:**

\_\_\_\_\_  
Printed Name of Service Provider

Mortgage Specialists International, LLC

\_\_\_\_\_  
Printed Name of Representative

\_\_\_\_\_  
Printed Name of Representative

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Title of Representative

\_\_\_\_\_  
Title of Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



## EXHIBIT A

### Required Insurance

General Liability and Errors and Omissions insurance must be obtained from one of 3 providers: Brunswick Companies, Leonard Insurance, or York-Jersey. During the term of the Agreement Service Provider shall maintain, at its own expense, insurance policies covering the product and services to be provided under the Agreement, including the following:

1. **Occurrence- based Commercial General Liability Insurance.** In the amount of \$1,000,000 per occurrences or claim, with Extended Property Damage Coverage in the amount of \$50,000 per occurrence or claim for personal property in the care or custody of control of Service Provider, occurring as a result of Service Provider's operations.
2. **Errors and Omissions (Professional Liability) Insurance.** In the amount of \$1,000,000 per claim/\$1,000,000 per aggregate.
3. **Statutory Worker's Compensation Insurance with Alternate Employer Endorsement.** If Service Provider has (W2) employees providing services under the Agreement, Service Provider shall maintain Statutory Worker's Compensation Insurance with Alternate Employer Endorsement including \$500,000 Employers Liability coverage. If Service Provider does not have W2 employees, and only provides services under the Agreement via the use of subcontractors (1099), Service Provider may so attest in which case no evidence of Workers Compensation coverage shall be required. Service Provider shall maintain and provide evidence of ongoing Workers Compensation coverage, as specified above.
4. **Additional Obligations.**
  - a. Service Provider's policies will be primary and non-contributing with respect to any other insurance or self-insurance which may be maintained by MSI.
  - b. MSI shall be named as an additional insured, including with respect to complete operations hazards under required Commercial General Liability and Errors and Omissions.
  - c. Service Provider and its insurance carriers shall waive subrogation with respect to the Workers Compensation, Commercial General Liability and E&O policies.
  - d. Service Provider must provide thirty (30) days written notice to MSI prior to cancelation, non-renewal or material reduction in limits of any insurance policy.
  - e. Prior to commencing work under the Agreement, and within 10 days of each subsequent policy renewal, Service Provider's insurers, or their authorized representatives, shall provide MSI with Certificates of Insurance evidencing that all coverage and policy endorsements required under this agreement are maintained in force. MSI has the right, but not the duty to receive certified copies of any required insurance policy and to verify that the coverage provided meets the standards set forth herein.
  - f. Service Provider must ensure that all Service Provider's Personnel meet the insurance requirement minimums as specified in this agreement.
  - g. Nothing in the insurance requirements section will be construed as limiting the Service Provider Personnel's liability to MSI or third party.
5. Service Provider will furnish a declaration page, as well as any other appropriate documents any time MSI requests such documentation.





Solutions. On Target. On Time.

6. Any failure by MSI to notify Service Provider of a deficient or missing insurance documentation will in no way reduce or relieve the insurance obligations for Service Provider and Service Provider's Personnel.
7. In certain situations, MSI may grant an exception to Service Provider on the insurance provider that it may use to obtain its insurance policies. However, Service Provider must obtain written approval from MSI for an exception to be valid.



EXHIBIT B

MSI's Default Rates for Inspections

Description	Default rate	Default Rush/Priority fee
FULL LOAN SERVICE REPORT	\$6.00	\$2.00
STANDARD INSPECTION	\$6.00	\$2.00
PROPERTY INSPECTION (when it is requested that the interior be included)	\$7.00	\$2.00
FULL LSR - LETTER DELIVERY	\$6.00	\$2.00
FEMA DISASTER INSPECTION	\$6.00	\$2.00
SALE DATE INSPECTION	\$6.00	\$2.00
FAST TRACK INSPECTION / INSPECT ON SPECIFIED	\$6.00	\$2.00
PROPERTY MAINTENANCE INSPECTION	\$6.00	\$2.00
MOBILE HOME INSPECTION	\$6.00	\$2.00
CONDITION INSPECTION	\$6.00	\$2.00
POST BANKRUPTCY INSPECTION (OCCUPANCY)	\$6.00	\$2.00
FORECLOSURE SALE DATE INSPECTION	\$6.00	\$2.00
BASELINE AFTER SALE INSPECTION	\$6.00	\$2.00
DEED IN LIEU PRELIMINARY INSPECTION	\$6.00	\$2.00
DEED IN LIEU FINAL INSPECTION	\$6.00	\$2.00
REO Inspection	\$6.00	\$2.00
RE-VERIFY OCCUPANCY	\$6.00	\$2.00
VERIFY OCCUPANT NAME	\$7.00	\$2.00
THREE DAY VACANCY NOTICE	\$8.00	\$2.00
CONSTRUCTION PROGRESS/LOSS DRAFT	\$12.00	\$2.00
HOME IMPROVEMENT INSPECTION	\$12.00	\$2.00
DIL INTERIOR INSPECTION	\$15.00	\$2.00
TENANT INTERIOR INSPECTION	\$15.00	\$2.00
VACANT PROPERTY REGISTRATION	\$15.00	\$2.00
REVERSE MORTGAGE	\$20.00	\$2.00
COMMERCIAL INSPECTION	\$25.00	\$2.00



EXHIBIT C

Authorization to Communicate with Third Parties

This Authorization to Communicate with Third Parties (“Authorization Letter”) shall become effective on the date both Mortgage Specialists International, LLC (“MSI”) and Service Provider execute (“Effective Date”) an Independent Field-Service Provider Agreement (“Agreement”).

1. This Authorization Letter permits MSI to directly communicate with any third parties that Service Provider has disclosed to have been utilized for a Technological Purpose. Technological Purpose is defined as anything that would allow the third party to access MSI, or MSI’s client’s data or information on the system of record, or any other software or application.
2. MSI’s communications with third parties shall be limited to information pertaining to the Agreement and any Services provided under the Agreement.
3. This Authorization Letter is limited to the term of the Agreement. Thus, upon the expiration or termination of the Agreement, this Authorization Letter shall expire.

\_\_\_\_\_  
Name of Service Provider

\_\_\_\_\_  
Signature of Service Provider (may be electronic)

\_\_\_\_\_  
Effective Date