

Effective 08/21/2015

APPRAISAL QUALITY MANAGEMENT END USER LICENSE ("License") BY MERCURY NETWORK, LLC

IMPORTANT NOTICE TO USER - PLEASE READ CAREFULLY

YOU MAY NOT ACCESS THE APPRAISAL QUALITY MANAGEMENT SOFTWARE (THE "SOFTWARE") OR USE ANY OF THE INFORMATION INCLUDED THEREON UNLESS YOU FIRST REVIEW AND ACCEPT THE TERMS AND CONDITIONS OF THIS USER AGREEMENT (The "AGREEMENT") BY CLICKING ON "I AGREE," YOU REPRESENT AND WARRANT TO MERCURY NETWORK, LLC (REFERRED TO HEREIN AS "MN" or "WE") THAT YOU ARE AN AUTHORIZED EMPLOYEE OF A BANK, MORTGAGE COMPANY, OR OTHER PARTICIPANT IN THE REAL ESTATE MORTGAGE INDUSTRY. THIS AGREEMENT CONSTITUTES A BINDING AGREEMENT BETWEEN MN AND THE SOFTWARE USER ("USER" OR "YOU"). AFTER REVIEWING THE TERMS AND CONDITIONS BELOW, PLEASE ACKNOWLEDGE YOUR AGREEMENT BY CLICKING ON "I AGREE," OR INDICATE THAT YOU DECLINE THIS AGREEMENT BY CLICKING ON "I DO NOT AGREE" AT THE BOTTOM OF THIS FILE. YOU CANNOT OBTAIN ACCESS TO THE NETWORK UNLESS YOU AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT BY CLICKING ON "I AGREE."

1. Access to Network. MN hereby grants to you, and you hereby accept, a limited, revocable, non-exclusive right to access the Software solely for purposes directly related to your professional activities arising in the ordinary course of business, subject to and in accordance with the terms and conditions hereof. Any other use of the Software is strictly prohibited.

2. Transaction Fees. You shall pay the fees and other charges for the Services as stated on the [Mercury Network Transaction Fees](#) page or in this Agreement. MN reserves the right to change its fees at any time. You shall make all payments in U.S. currency. Your credit card will be billed in arrears for any and all fees. MN reserves the right to suspend or terminate your account if credit card charges are denied. Such suspension or termination shall not relieve you of the obligation to pay the transaction fees due. You agree to pay MN its reasonable expenses, including attorneys' and collection agency fees, incurred in enforcing its rights under this Agreement.

2.2 Credit Card Processing. By entering credit card information, User is authorizing MN to charge the supplied credit card for each transaction made by User.

3. Use of Software. In connection with your activities while using the Software, you shall (i) operate your business in accordance with all applicable laws and regulations, (ii) not participate or engage in any illegal, deceptive, misleading, unethical or improper practice or infringe any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy.

Your use of the Software acknowledges that the Software does NOT perform nor attempt to perform any one or more of the following function(s) on behalf of a lender, financial institution, client, or any other person, such as:

- (1) Administering an appraiser panel;
- (2) Recruiting, qualifying, verifying licensure or certification, and negotiating fees and service level

- expectations with persons who are part of an appraiser panel;
- (3) Receiving an order for an appraisal from one person and delivering that order to an appraiser who is part of an appraiser panel for completion;
 - (4) Tracking and determining the status of orders for appraisals;
 - (5) Conducting quality control of a completed appraisal prior to the delivery of the appraisal to the person that ordered the appraisal;
 - (6) Providing a completed appraisal performed by an appraiser to one or more persons that have ordered an appraisal report.

Additionally, Your use acknowledges that you are making all decisions, responsible for all actions, that you are contracting directly with the appraiser, etc. with no management oversight from Mercury Network, LLC, nor from the Software.

4. Privacy.

4.1 Information Rights. MN may retain and use information collected in User's use of the Software. MN will use this information to operate the Software and to provide service(s) or carry out transaction(s) you have requested or authorized. MN will not share personally-identifiable information with any third parties unless we (i) have Your consent; (ii) conclude that it is required by law or a good faith belief that access, preservation or disclosure of such information is reasonably necessary to protect the rights, property or safety of MN, its users or the public; or (iii) provide such information in certain limited circumstances to third parties to carry out tasks on MN's behalf (e.g., billing or data storage) with strict restrictions that prevent the data from being used or shared except as directed by MN. When this is done, it is subject to agreements that oblige those parties to process such information only on MN's instructions and in compliance with this Agreement and appropriate confidentiality and security measures.

4.2 Confidentiality. The term "nonpublic personal information" means the same under this Agreement as it does under §509 of the Gramm-Leach-Bliley Act (15 U.S.C. §6809). In the course of providing the services, MN may receive nonpublic personal information ("NPI") about the User's customers. MN shall maintain the confidentiality of the NPI and shall not, without the prior written consent of the User, disclose, copy or use any NPI other than to carry out the services provided hereunder.

4.3 Safeguarding Customer Information. MN shall implement appropriate measures designed to: (a) ensure the security and confidentiality of NPI; (b) protect against any anticipated threats or hazards to the security or integrity of NPI; and (c) protect against unauthorized access to or use of NPI that could result in substantial harm or inconvenience to any customer.

4.4 Use and Storage of Information. By using the Software, you agree that you are enhancing the Software with the data that you input into the Software. You consent to future use of and storage the data you input, by you or by third parties. Such data will only be used to enhance the Software and MN does not become the owner of the data.

4.5. Incident Response. In the event MN becomes aware of any unauthorized access to or use of NPI (an "Incident"), MN shall undertake appropriate actions to address the Incident including, without limitation, assessing the nature and scope of the Incident, identifying what NPI may have been compromised, notifying appropriate law enforcement authorities where applicable, notifying User and taking appropriate steps to contain and control the Incident.

4.6 Indemnification. MN agrees to indemnify and hold the User harmless from and against any and all claims, demands, liability, damages, loss, cost and expenses, including reasonable attorney's fees arising out of or in any way related to MN's failure to maintain the confidentiality of any NPI.

5. Use of Name. MN will not include your name and/or company logo in advertisements and releases promoting the Software without your consent.

6. User Communication. MN reserves the right to send service e-mails notifying User of operational or other changes that may affect or change the Services offered by MN. Please note that you cannot opt out of such service e-mails because these service e-mails provide information critical for the operation of the Software.

USER HEREBY GRANTS MN EXPRESS WRITTEN PERMISSION TO SEND FAX AND OR EMAIL SOLICITATIONS OR ADVERTISEMENTS, THUS SATISFYING ANY EXPRESS WRITTEN PERMISSION REQUIREMENT.

7. Restrictions. You may not publish, display, disclose, rent, lease, sublease, modify, loan, distribute, or create derivative works based on the Software or any part thereof. You may not reverse engineer, decompile, translate, adapt, or disassemble the Software, nor shall you attempt to create the source code from the object code for the Software. You shall not transmit the Software over any network or between any devices, although you may use the Software to make such transmissions of other materials.

8. Ownership. You have no ownership rights in the Software. Rather, you have a license to use the Software as long as this Agreement remains in full force and effect. Ownership of the Software, Documentation and all intellectual property rights therein shall remain at all times with MN. Any other use of the Software by any person, business, corporation, government organization or any other entity is strictly forbidden and is a violation of this Agreement.

9. Copyright. The Software and Documentation contain material that is protected by United States Copyright Law and trade secret law, and by international treaty provisions. All rights not granted to you herein are expressly reserved by MN. You shall not remove any proprietary notice of MN from any copy of the Software or Documentation.

10. Termination. This Agreement shall become effective upon your acceptance of the terms and conditions contained herein and shall continue until terminated. You may terminate this Agreement at any time by ceasing to use the Software.

MN reserves the right to terminate this Agreement for any breach of the provisions hereof or the provisions of the Agreement, as determined by MN in its sole discretion. MN shall have no obligation to refund any of User's fees due to MN's early termination of this Agreement.

11. Amendments/Modifications. MN reserves the right to amend the Service offerings, and add, delete, suspend or modify the terms and conditions of the Services at any time, and to determine whether and when, at its sole discretion, any such changes apply to existing or future Users.

12. MN's Rights. You hereby acknowledge that the Software is the proprietary property of MN, the names and marks "Appraisal Quality Management" and "AQM," and all associated names, marks and logos (collectively, the "Marks") are the trademarks and/or service marks of MN or its affiliates, and that any trade dress, trademarks, service marks or designs related to Appraisal Quality Management, AQM and/or the Marks are the intellectual property of MN and are protected by United States copyright laws, trademark laws, trade secret laws, international treaties and applicable laws of the states and jurisdictions where they are used. This Agreement does not grant to you any ownership rights in the Marks or in any other intellectual property of MN. All right, title and interest in and to the Marks, and any other intellectual property of the MN shall remain with MN. You further acknowledge that the Software and its functionality, structure and organization, and the code format of the Software are valuable confidential trade secrets of MN.

13. Disclaimer of Warranties. User understands that the Internet and other various networking communication mediums are not secure, unless explicitly specified as such, and may be subject to interception or loss. MN makes no representations or warranties of any kind, either express, implied or statutory, concerning the data or information available through the Software or the Internet. MN'S SERVICES ARE PROVIDED ON AN "AS IS" BASIS. MN MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT; THAT THE SERVICES WILL MEET USER'S REQUIREMENTS OR WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE OR OPERATE WITHOUT ERROR; ANY IMPLIED WARRANTY ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE; REGARDING ANY THIRD PARTY SOFTWARE OR SERVICES; AND/OR ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT WHETHER OR NOT ARISING FROM THE NEGLIGENCE OF MN. TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW, MN DISCLAIMS ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES.

14. Limitation of Liability. IN NO EVENT WILL MN BE LIABLE TO USER FOR ANY CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, INDIRECT, SPECIAL OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOST PROFITS OR LOSS OF BUSINESS) ARISING OUT OF OR RELATED TO (I) THE SERVICES, (II) YOUR USE OF ANY DATA, INFORMATION OR THIRD PARTY SOFTWARE AVAILABLE THROUGH THE SOFTWARE, (III) THIS AGREEMENT OR (IV) ANY FAULTY VALUES DELIVERED THROUGH THE SOFTWARE REGARDLESS OF THE NATURE OR BASIS OF THE CLAIM INCLUDING, BUT NOT LIMITED TO, TORT, CONTRACT OR STRICT LIABILITY CLAIMS. IN ADDITION, MN SHALL HAVE NO LIABILITY OF ANY KIND OR NATURE TO USER ARISING OUT OF OR RELATED TO USER'S USE OF OR INABILITY TO USE USER'S ACCOUNT. IN THE EVENT THAT MN IS LIABLE TO USER FOR ANY LOSS ARISING OUT OF OR RELATED TO THE SERVICES, THIS AGREEMENT, MN'S AGGREGATE LIABILITY TO USER WILL IN NO EVENT EXCEED \$100.00.

14.2 No Liability for Unauthorized Use or Access. User is solely responsible for ensuring that each password for User's account is utilized only by User or, if applicable, by User's authorized employees and

agents. MN shall have no liability for any loss, claim, damage or other liability that may arise from the unauthorized use of a password. If a password is lost or stolen or if you have reason to believe that your account is no longer secure for any reason, it is your responsibility to notify MN of such loss or theft so that the password can be deactivated and a new password assigned. MN will use commercially reasonable efforts to effect password deactivation requests promptly.

15. Indemnity. Indemnification; you agree to indemnify and hold MN harmless from any and all claims and demands, including, but not limited to reasonable attorneys' fees, made by any third party due to or arising out of or in connection with or resulting from your participation in the Software and or any information, including, but not limited to, information provided by MN. The foregoing indemnity shall not apply to any claims and demands arising out of or in connection with or resulting from the negligence of MN. The information, software, products, and services may include inaccuracies or typographical errors. Changes are periodically added to the information herein. MN, its affiliates and/or its respective suppliers may make improvements and/or changes in this site at any time. In no event shall MN be liable for any direct, indirect, punitive, incidental, special, consequential damages or any damages whatsoever including, without limitation, damages for loss of use, data or profits, arising out of or in any way connected with the use or performance of MN services and software.

16. Release. In the event a dispute arises between you and any other user of the Software, you shall and do hereby release MN and its officers, directors, employees and agents from any and all claims, demands, losses, costs, expenses, liabilities and damages of every kind and nature, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or in any way connected with such dispute. If you are a California resident, you waive California Civil Code 1542, which says: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

17. Force Majeure. MN shall not be liable for nonperformance, delay, errors, data loss or other loss caused by any event reasonably beyond MN's control including, but not limited to, acts of God, war, terrorism, hostilities, revolution, civil disorder, national emergency, strikes, lockouts, unavailability of supplies, epidemics, fire, flood, earthquake, force of nature, explosion, embargo or any law, proclamation, regulation, ordinance or other act or order of any court, government or governmental agency.

18. Governing Law. This Agreement shall be construed and governed by the internal laws of the State of Florida, U.S.A., excluding the application of its choice-of-law principles. MN may seek any interim or preliminary relief from a court of competent jurisdiction in Naples, Florida necessary to protect the rights or property of MN pending the completion of litigation or settlement.

19. Severability. If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be struck and the remaining provisions shall be enforced. You agree that this Agreement may be assigned by MN, in its sole discretion, to a third party in the event of a merger or acquisition. This Agreement sets forth the entire understanding and agreement between you and MN with respect to the subject matter hereof.

20. Modifications to Terms of Service and Other Policies. MN reserves the right to change or modify any of the terms and conditions contained in this Agreement or any policy governing the Software at any time, by posting the new agreement to the site located at www.mercuryvmp.com/legal (or such

other URL as MN may provide). You are responsible for regularly reviewing the policy. No amendment to or modification of this Agreement will be binding unless (i) You accept updated terms online, or (ii) You continue to use the Service after MN has posted updates to the Agreement or to any policy governing the Software.

21. Assignment. User may not assign this Agreement or any of its rights or obligations hereunder without the prior written consent of MN. MN's rights and obligations hereunder will bind and inure to the benefit of its successors and assigns.

22. No Waiver. Neither the failure nor the delay of MN in exercising, enforcing or taking action against you with respect to any of the MN's powers or rights shall operate as a waiver of such powers or rights. No single or partial exercise by MN of any of its powers or rights will preclude MN from exercising such powers and rights in the future or from exercising other powers and rights.

23. Section Headings. The headings of sections in this Agreement are provided for convenience only and will not affect the construction of the sections.

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND IT AND AGREE TO BE BOUND BY ITS TERMS AND CONDITIONS. YOU FURTHER ACKNOWLEDGE THAT THIS LICENSE CONSTITUTES THE ENTIRE AGREEMENT BETWEEN YOU AND MN AND SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, ORAL, OR WRITTEN, AND ANY OTHER COMMUNICATIONS BETWEEN US RELATING TO THE SUBJECT MATTER OF THIS LICENSE. YOU ALSO AGREE THAT ALL OF THE TERMS AND CONDITIONS OF THIS LICENSE APPLY TO YOUR USE OF THE SOFTWARE, SHOULD YOU CHOOSE TO PROCEED WITH THE USE AND IMPLEMENTATION OF THE SOFTWARE.

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