

STAKETRACKER™ MASTER SUBSCRIPTION AGREEMENT

THIS MASTER SUBSCRIPTION AGREEMENT (this “**Agreement**”) is between **SUSTAINET SOFTWARE INTERNATIONAL INC.**, a British Columbia corporation with an address at Suite 400 – 1681 Chestnut Street, Vancouver, BC, Canada V6J 4M6 (“**Us**”, “**We**” or “**Our**”) and Our Customer (“**You**” or “**Your**”). This Agreement is entered into and becomes a legally binding agreement between Us and You, when You use the Services (as defined below). This Agreement may be amended from time to time in accordance with the provisions of §13.10; while We will try to give you notice thereof in advance, We encourage you to check the Services for the latest version of the Agreement from time to time or notices about such changes.

NOW THEREFORE, in consideration of the mutual covenants and premises herein contained, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires, capitalized terms will have the meaning assigned to them in this Agreement, including the following:

- (a) “**Account**” has the meaning set out in §3.4;
- (b) “**Affiliate**” means, with respect to any entity, an entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity, and “**control**”, for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of an entity;
- (c) “**Applicable Law**” means all applicable laws and regulations, including all applicable local, provincial, state, national and foreign laws, treaties and regulations as well as orders of courts or laws, regulations, by-laws or ordinances of applicable governmental agencies;
- (d) “**Applicable Privacy Laws**” means (i) with respect to SustainNet, the *Personal Information Protection and Electronic Documents Act* (Canada), or the *British Columbia Protection of Personal Information Act*, as same may be amended from time to time; (ii) with respect to You, the laws applicable to the protection of Personal Information of Your Users and of Personal Information included in Your Data;
- (e) “**Business Day**” means Mondays to Fridays, excluding statutory holidays in British Columbia, Easter Monday and Boxing Day;
- (f) “**Confidential Information**” has the meaning set out in §8.1;
- (g) “**Dispute**” means a dispute or controversy arising under, out of, in connection with or in relation to (i) this Agreement, (ii) the making, validity, interpretation, or breach of this Agreement, or (iii) any related matters or any legal relationship associated therewith or derived therefrom;
- (h) “**Enhancement**” means fixes, patches, modifications, improvements, and minor updates made to the Services by Us or any other person except for New Products;
- (i) “**Feedback**” has the meaning set out in §6.2;
- (j) “**Force Majeure Event**” has the meaning set out in §13.2;
- (k) “**Hosting Provider**” has the meaning set out in §7.1(b);
- (l) “**Intellectual Property Rights**” means any and all (i) proprietary rights provided under patent law, copyright law, trade-mark law, design patent or industrial design law,

semi-conductor chip or mask work law, or any other applicable statutory provision or otherwise arising at law or in equity, including, without limitation, trade secret law, that may provide a right in works, software, source code, object code, marks, ideas, formulae, algorithms, concepts, methodologies, techniques, inventions, or know-how, or the expression or use thereof, (ii) applications, registrations, licenses, sublicenses, agreements, or any other evidence of a right in any of the foregoing, and (iii) past, present, and future causes of action, rights of recovery, and claims for damage, accounting for profits, royalties, or other relief relating, referring, or pertaining to any of the foregoing;

(m) “**Malicious Code**” means viruses, cancelbots, worms, time bombs, Trojan horses and other harmful, disruptive, surreptitious or malicious components, code, files, scripts, agents or programs;

(n) “**New Product**” means any new version, edition, product, module or upgrade of the Services made available by Us or any other person from time to time where (i) functionality and features of the Services have been materially improved, added to or made available, (ii) such functionality and features do not generally form part of the Services then offered to You, and (iii) We require Our other customers of the Services then offered to You to pay a fee in order to obtain the New Product;

(o) “**Ordering Document**” means the ordering or registration documents for purchases hereunder (such as signed proposals, purchase orders, quotations or license detail documents), including further amendments or addenda thereto, that are entered into between You and Us from time to time, each of which will be deemed incorporated herein by reference;

(p) “**Personal Information**” means information about an identifiable individual pursuant to Applicable Privacy Laws;

(q) “**Project**” means a single unique and identifiable project requiring stakeholder consultation for a single and identifiable entity or client to be administered using the Purchased Services that is set out on the Ordering Document;

(r) “**Purchased Services**” means Services that You or Your Affiliates purchase under an Ordering Document;

(s) “**Services**” means the online, Web-based software applications provided by Us via Our Website, and as subscribed to by You, including associated offline components but excluding Third-Party Applications;

(t) “**Subscription Start Date**” means, in respect of any particular Purchased Service, the earlier of (a) the execution and delivery of this Agreement for your first access granted to any Purchased Services, or delivery of the

Ordering Document for further Purchased Services, or (b) Your commencement of any beneficial use of such Purchased Services in connection with any Project, and is not conditioned upon completion of training, acceptance testing or payment (without restricting Our rights under §5), or (c) the 1st day of the month immediately following the execution and delivery of this Agreement or Ordering Document;

(u) **“Support”** means the service provided by Us in regards to the use of the Purchased Services, including response to Service-related questions and issues, resolving defects, maintaining and supplying Enhancements, and making available New Products, all as further described in Schedule A;

(v) **“SustaiNet Privacy Policy”** means the privacy policy made available by Us via Our Website, respecting the use, collection and retention of personal information as updated from time to time, the current version of which is attached as Schedule B, and as available at <https://www.sustainet.com/privacy-policy/>;

(w) **“Third-Party Applications”** means online, Web-based applications and offline software products that are provided by third parties, interoperate with the Services, and are identified as third-party applications;

(x) **“User Guide”** means the online user guide or help system for the Services, accessible via Our Website as updated from time to time;

(y) **“Users”** means named individuals (active or inactive) who are or were authorized by You to access and use the Purchased Services, for whom Software Subscriptions to a Purchased Service have been acquired, and who have been supplied Accounts by You (or by Us at Your request), and may include Your directors, officers, employees, consultants, contractors and agents, third parties with which You transact business, or other stakeholders. Your Users may also include such persons in respect of your Affiliates if Your Ordering Document includes licenses for your Affiliates;

(z) **“Software Subscriptions”** means a subscription to the Service based on Users, Projects, Business Unit, or Enterprise, as set out on the Ordering Document;

(aa) **“Website”** means <https://www.staketracker.com/st/> or other such designated website(s) as may be offered by Us during the term of this Agreement upon notice to you;

(bb) **“Your Administrator”** is Your primary contact person as described in the notice provisions of this Agreement, or as may be changed by giving written notice to Us of such change in person; and

(cc) **“Your Data”** has the meaning set out in §6.3, but for greater certainty does not include Feedback.

1.2 Interpretation. In this Agreement, unless expressly stated otherwise or the context otherwise requires,

(a) headings and captions are for convenience only and will not be deemed to explain, limit or amplify the provisions hereof,

(b) a reference to a “§” or “Part” is to a numbered or lettered section or part of this Agreement,

(c) an obligation of You includes a reference to You requiring Your Affiliates to comply with such obligation,

(d) the word **“including”**, when following a general statement or term, is not to be construed as limiting the general statement or term (whether or not used in connection with phrases such as “without limitation” or “but not limited to”) and the word **“or”**, when connecting two or more matters, will not imply an exclusive relationship between the matters,

(e) a reference to a **“person”** or **“entity”** means an individual, corporation, body corporate, firm, limited liability company, partnership, syndicate, joint venture, society, association, trust or unincorporated organization or governmental authority or trustee, executor, administrator or other legal representative, including any successor to that person,

(f) a word importing the masculine gender includes the feminine and neuter, a word in the singular includes the plural, a word importing a corporate entity includes an individual, and vice versa,

(g) words, phrases and acronyms not otherwise defined herein that have a meaning commonly understood and accepted by persons familiar with the Internet and computing services professionals will be interpreted and understood to have that meaning herein,

(h) all references to currency mean currency of Canada, unless otherwise specified, and

(i) in the event of any necessary conflict or inconsistency between the terms of this Agreement and the terms of the Ordering Document, the terms of this Agreement will prevail to the extent necessary to resolve such conflict or inconsistency.

2. PURCHASED SERVICES

2.1 Provision of Purchased Services and License.

Commencing on the Subscription Start Date and continuing during the subscription term set out in the relevant Ordering Documents, and always subject to all of the terms and conditions of this Agreement, We will make the Purchased Services available to You pursuant to this Agreement and the relevant Ordering Documents.

2.2 License. We hereby grant to You a non-transferable (except as set out in §13.5), non-exclusive, limited license during the term of this Agreement (and during the applicable subscription term for any Software Subscription) to use, execute, display and perform (subject to §3.2) the Purchased Services, and to permit Your Affiliates and Users for whom a Software Subscription has been purchased to do the same, subject to the terms of this Agreement.

2.3 No Sale. The parties acknowledge and agree that nothing in this Agreement constitutes a sale of any software owned or licensed by Us, and further that this Agreement does not convey to You, or to any Affiliate, User or any third party, any ownership right, interest or title in or to any software owned or licensed by Us, or to any Intellectual Property Rights therein, and that You will not obtain any rights to any software other than those expressly set out in this Agreement.

2.4 Software Subscriptions. Unless otherwise specified in the applicable Ordering Document,

- (a) if applicable, Services are purchased as Software Subscriptions and may be accessed by no more than the specified number (such as a finite number of Users, or an unlimited number of Users) or type (such as Users in respect of a particular Project) of Users, if any such limitations are expressed in the Ordering Document,
- (b) additional Software Subscriptions may be added during the applicable subscription term at the same pricing as that for the pre-existing subscriptions, pro-rated for the remainder of the subscription term in effect at the time added,
- (c) any additional Software Subscriptions will terminate on the same date as the pre-existing Software Subscriptions, and
- (d) Software Subscriptions are strictly designated to particular and identifiable Users, and cannot be shared or used by any other User and may not be reassigned to new Users replacing former Users who no longer require ongoing use of the Purchased Services in connection with the Software Subscription.

2.5 Complete Services. You agree that Your purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features. Notwithstanding the foregoing, We may, from time to time, update the Services (including the underlying server software or hardware) or otherwise offer Enhancements, which Enhancements will form part of the Services being licensed and provided hereunder without further payment by You. We will use commercially reasonable efforts to

- (a) ensure that such Enhancements are compatible with and will not adversely affect or reduce the functionality, performance, availability and accessibility of the Services, and
- (b) to the extent that such Enhancements do so adversely affect the Services and You notify Us of same, restore or reinstate the most recent Services as soon as may be reasonable and practicable in the circumstances.

2.6 New Products. If, during the term of this Agreement, We develop or offer New Products, such New Products will not form part of the Purchased Services and may be provided and licensed separately to You for an additional fee or under an additional Ordering Document. However, in no event will We be obligated to provide any New Products, nor will You be obligated to purchase those New Products, unless agreed to in writing by the parties.

2.7 Actions of Affiliates and Users. As between You and Us, You will be responsible for the actions of each of Your Affiliates and Users as if such actions were Yours.

3. USE OF THE SERVICES

3.1 Our Responsibilities. We will

- (a) provide Support to You for the Purchased Services at no additional charge as described in Schedule A,
- (b) subject to Schedule A, use commercially reasonable efforts to make the Purchased Services available 24 hours a

day, 7 days a week, except for (i) planned downtime, of which We will give reasonable notice via the Purchased Services and which We will schedule, to the extent practicable, during low-usage periods, or (ii) unavailability caused by a Force Majeure Event, and

- (c) provide the Purchased Services only in accordance with Applicable Law and government regulations, including all privacy laws and regulations.

3.2 Your Responsibilities (Things You Must Do). You will

- (a) be responsible for Your, Your Affiliates, and Your respective Users' compliance with this Agreement,
- (b) be solely responsible for the accuracy, quality, integrity and legality of Your Data and of the means by which You acquired Your Data,
- (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, and
- (d) use the Purchased Services only in accordance with the User Guide and Applicable Law, including all applicable privacy laws and regulations.

3.3 Prohibited Conduct (Things You Must Not Do). You will not, nor will You permit any Affiliate or User to,

- (a) make the Services available to anyone, or permit anyone to access the Services, other than Users, and, unless otherwise expressly permitted by written agreement with Us, You will not license, sublicense, sell, resell, publish, republish, transfer, assign, distribute, rent, lease, time-share, copy or otherwise commercially exploit the Services in any way except in accordance with the Software Subscription,
- (b) use the Services in any manner or for any purpose
 - (i) that violates the published SustaiNet Privacy Policy or this Agreement,
 - (ii) that contravenes, facilitates the violation of, or violates any Applicable Law, including the extraction, gathering, collection or storage of personal information contrary to such Applicable Law, or
 - (iii) that intentionally (or would reasonably be known to) interferes with or disrupts the integrity or performance of the Services or third-party data contained therein,
- (c) attempt to gain unauthorized access to the Services or their related systems or networks,
- (d) post, upload, reproduce, distribute or otherwise transmit,
 - (i) unauthorized or unsolicited commercial e-mail, junk or bulk e-mail, chain letters or other "spam" or any other duplicative or unsolicited messages, surveys, contests or pyramid schemes,
 - (ii) any Malicious Code,
 - (iii) defamatory, infringing, indecent or unlawful software, materials or information, or

(iv) inappropriate, profane, or obscene software, materials or information without suitable or lawfully-required access controls,

(e) alter, modify, reverse engineer, decompile, or disassemble, translate or otherwise attempt to extract the source code from the Services or any part thereof, nor will You create derivative works based on the Services or works containing a substantial part of the source code to the Services,

(f) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes,

(g) disable or circumvent any access control or related process or procedure established with respect to the Services,

(h) remove any copyright or other proprietary or Intellectual Property Rights notices or labels on or in the Services or any part, copy or report generated therefrom or thereof,

(i) use the Services to, or as part of a system designed to, obstruct or bypass computer identification procedures or engage in unauthorized computer or network trespass without the express permission of the owners of such computer systems,

(j) access the Services in order to (i) build a competitive product or service, or (ii) copy any features, functions or graphics of the Services,

(k) forge headers or otherwise manipulate any protocols or identifiers used in any system or protocol in such a manner to disguise the origin of any data transmitted using the Services, or

(l) impersonate or falsely represent Your association with any person, including Our representative, without the prior express, written permission of such person.

3.4 Account Use. Each User's access to the Purchased Services requires valid login credentials, including at least user identification and secure passwords, issued by Us, You (as authorized by Us or the Services) or the Purchased Services (each, an "Account"), and

(a) You are fully responsible for Accounts assigned to Your Software Subscriptions and each person for whom You give an Account, including the creation of Account credentials by You, the maintenance, confidentiality and security of all passwords related to Your Accounts, and any and all activities that occur under Your Accounts (including all activities of any Accounts of Affiliates, Users and persons who gain access to Your Accounts, whether with or without Your permission),

(b) You will notify Us as soon as practicable after You obtain or receive knowledge of (i) any unauthorized use of Your Accounts or any password related to Your Accounts, or (ii) any other breach of security with respect to Your Accounts, and

(c) You will provide true, current, accurate and complete information as prompted by the Account-creation process or as otherwise requested by Us from time to time and to promptly update such information when any changes

occur so as to keep such information held by Us is true, current, complete and accurate.

3.5 Usage Limitations. The following provisions apply with respect to all Services:

(a) **General Practices and Limits.** Your Ordering Document may set out limitations with respect to the number or types of Users, an amount of storage, number of Projects, and other limitations (the "Specified Limitations"). In addition, You acknowledge that We may establish from time to time, by giving You reasonable notice as may be practicable in the circumstances, general practices and limits concerning the excessive or abusive use of the Services (which may not reduce any Specified Limitations without Your advance written approval). We will notify you of changes to such general practices and limits by written notice or e-mail, and will post same on Our Website. You agree that You may not exceed such limits, and that it is Your responsibility to monitor Your usage of the Services using the tools provided by Us as part of the Services.

(b) **Internet-based Services.** The Services depend on the Internet, including networks, cabling, equipment and facilities that are not in Our control; accordingly, while We will use commercially reasonable efforts to protect Your Data and the operation of the Purchased Services,

(i) any representation made by Us regarding access performance, speeds, reliability, availability, use or consistency of the Services are on a "commercially reasonable efforts" basis,

(ii) We cannot guarantee any minimum level regarding actual User performance, speed, reliability, availability, use or consistency based on factors dependent on the Internet, and

(iii) data, messages, information or materials sent over the Internet may not be completely private, and Your anonymity is not guaranteed.

(c) **External Host.** Your Data will be stored by Our Hosting Provider at its facilities in Canada, subject to §7.

4. THIRD-PARTY PROVIDERS

4.1 Third-Party Products and Services. We may offer Third-Party Applications for sale under Ordering Documents. Any other acquisition by You of third-party products or services, including but not limited to Third-Party Applications and implementation, customization and other consulting services, and any exchange of data between You and any third-party provider, is solely between You and the applicable third-party provider. We do not warrant or support third-party products or services, whether or not they are offered by Us or otherwise, except as specified in a Ordering Document. Except for system requirements set out in the User Guide, no purchase of third-party products or services is required to use the Services.

4.2 Third-Party Applications and Your Data. If You install or enable Third-Party Applications for use with the Purchased Services, You acknowledge that We may allow providers of those Third-Party Applications to access Your Data as required for the interoperation of such Third-Party Applications with the Purchased Services. We will not be responsible for any disclosure, modification or deletion of Your Data resulting from any such access by Third-Party

Application providers. The Purchased Services will permit You to restrict such access by restricting the installation or enabling of such Third-Party Applications for use with the Purchased Services. You are responsible for enabling such restrictions, and We are responsible for providing the tools and Support for such restrictions.

5. FEES AND PAYMENT

5.1 Fees. In consideration for Your access and use of the Purchased Services, You will pay all fees specified in the Ordering Documents after the Subscription Start Date as set out in the Ordering Document. Except to the extent set out in an Ordering Document,

- (a) except for any applicable one-time set-up fees, all payments due to Us for the Purchased Services will be due and payable in advance based on (i) in regular cases, annual periods that begin on the subscription start date and each anniversary thereof, and (ii) for the initial, pro-rated period of Purchased Services that are added midway through a yearly period of this Agreement, the time such Purchased Services are added,
- (b) all fees are in Canadian dollars, or as specified per the Ordering Document,
- (c) all fees are based on Purchased Services and Software Subscriptions regardless of actual usage, notwithstanding that if You exceed the permitted Users under Your Software Subscription, We may charge You for such overages,
- (d) the number of Software Subscriptions purchased may not be decreased during the relevant subscription term stated on the Ordering Document,
- (e) fees for Software Subscriptions added in the middle of an annual period will be charged a *pro-rata* amount for that remaining annual period in the applicable subscription term,
- (f) payment obligations are in advance for subscription terms and are non-cancellable and non-refundable except as expressly set out in this Agreement.

5.2 Invoices. When submitting an Ordering Document, You will provide Us with a valid purchase order or alternative document reasonably acceptable to Us. We will issue You a proforma invoice or quotation setting out the fees due and payable up to ninety (90) days, but no less than thirty (30) days, in advance of the current Software Subscription expiration date, otherwise in accordance with the relevant Ordering Document, such proforma invoice to specify the reasonable particulars thereof and all applicable taxes (which are the responsibility of You). On acceptance and signing of the proforma invoices, all final invoices will be due and payable, and You will pay same, net thirty (30) days after (a) receipt of the applicable invoice, and (b) for annual Software Subscription fees, no later than the date of expiry of the current Software Subscriptions.

5.3 Overdue Charges. Without restricting Our option to terminate in accordance with the terms of this Agreement, if any fees are not received from You by the due date, then such charges will accrue late interest at the rate of 1.0% of the outstanding balance per month (12.68% per annum), or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid, and, at Our discretion,

(a) We may condition future subscription renewals and Ordering Documents on payment terms shorter than those specified above, or

(b) We may restrict Your access to the Services for failure to pay any amounts due hereunder that are past due after written notice to this effect, as set out under §5.4.

5.4 Suspension of Service and Acceleration. If any amount owing by You under this Agreement, or any other agreement for Our services, is overdue after written notice to this effect, We may, without limiting Our other rights and remedies, upon notice (a) accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and/or (b) suspend Our services to You until any outstanding amounts are paid in full.

5.5 Taxes. Unless otherwise stated on Our invoices, Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature in connection with your payment of the fees or your use of the Purchased Services, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount will be invoiced by Us to You and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for Taxes assessable against Us based on Our income, property and employees.

5.6 Increases. Except as set out in any Ordering Document, We reserve the right to increase the annual software subscription fees for the Services at our discretion; however any such increase will not exceed a 10% increase over a previous Annual License Period, unless the annual software subscription fees paid have remained unchanged for at least 3 consecutive years, in which case any price increase will reflect updated market pricing.

6. PROPRIETARY RIGHTS

6.1 Reservation of Rights. All right, title and interest (including all Intellectual Property Rights) in and to the Services is and will at all times be fully vested in Us except as otherwise expressly set out in this Agreement.

6.2 Feedback. From time to time during the term of this Agreement, You, Your Affiliates or Your Users may provide Us with comments, suggestions, ideas and impressions of the Services ("Feedback"). You acknowledge and agree that, by disclosing such Feedback to Us, You, Your Affiliates or Your Users, as the case may be, will be deemed to have granted to Us a royalty-free, worldwide, transferable, sub-licensable, non-exclusive, irrevocable and perpetual license to use, modify, adapt, improve or incorporate such Feedback into the Services. You acknowledge and agree that the opportunity to use the Services is good and sufficient consideration for any contributions, through the Feedback or otherwise, to the design, improvement, or functionality of the Services and the transfer to Us thereof.

6.3 Your Data. We do not claim ownership of, and except as expressly set out in this Agreement assume no responsibility with respect to, any information, materials,

data entered or inputted into the Services by or on behalf of You, Your Affiliates or Your Users (collectively, “**Your Data**”). All rights, titles and interests (including Intellectual Property Rights) in and to Your Data, will at all times be fully vested in You, except as follows:

(a) **Rights and License to Your Data**—by transmitting, storing, displaying, processing or otherwise using Your Data in any way with respect to the Services, You will be deemed to have

(i) represented and warranted to Us that You have all rights, titles and interests (including all Intellectual Property Rights) in and to Your Data for their use with the Services and for the license granted to Us under this §6.3, and

(ii) granted to Us a royalty-free, worldwide, transferable, sub-licensable, license during the term of this Agreement to use, copy, distribute, transmit, display, edit, delete, modify, publish and translate Your Data only to the extent reasonably required for (A) the proper transmission, storage, display or other usage or performance thereof in connection with the Services and (B) the performance of Our obligations under this Agreement, and

(b) **Statistical Analysis**—Subject to §8, we reserve the right to perform statistical analysis of access to and use of the Services and Your Data, including network traffic and access requests, for the purposes of measuring the effectiveness of the Services, optimizing performance, and ensuring compliance with this Agreement.

6.4 Government End Use Provisions. This provision only applies if You are a government agency. We provide the Services, including related software and technology, for ultimate government end use solely in accordance with the following: government technical data and software rights related to the Services include only those rights customarily provided to the public as set out in this Agreement; and if any government agency has a need for rights not conveyed under the terms of this Agreement, it must negotiate with Us to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

7. Privacy and Data Protection

7.1 Privacy. We acknowledge and agree that Your Data may contain commercially sensitive and Personal Information, and, in connection therewith, We will

(a) comply with the SustaiNet Privacy Policy, which forms an integral part hereof and is incorporated herein by reference;

(b) use industry-standard management practices, technologies and security measures to protect the integrity, safety and security of Your Data in both physical and electronic form, and have selected a Canadian-based hosting partner (Our “**Hosting Provider**”) with whom We have contracted to do the same;

(c) ensure that Our Hosting Provider stores Your Data in Canada, except that You acknowledge and agree that Your use of the Services will utilize, in whole or in part, the public Internet and third party networks to transmit communications, which transmissions may be intercepted

by other parties or stored, cached, routed, transmitted or received in jurisdictions outside of Canada, and

(d) subject to §6.3, not examine Your Data except at Your specific request, and will not examine or use Your Data for Our benefit or the benefit of a third party without Your express, prior written authorization.

7.2 Compliance.

(a) Each party hereby represents that it has taken commercially reasonable steps to ensure that it will at all times comply with Applicable Privacy Laws.

(b) You represent that any Personal Information provided by You to Us under this Agreement has been and shall be collected, transferred and/or disclosed in compliance with Applicable Privacy Laws (including obtaining the proper consent of individuals where applicable), it being understood that (i) We have no responsibility for Your Data input and (ii) You are responsible for handling Your Data in your possession or control in accordance with Applicable Privacy Laws at all times.

(c) Each party agrees to provide reasonable cooperation to the other in the instance that the other Party is subject to an inquiry by a privacy or data protection authority, the scope of which includes operations or information within the assisting Parties’ control.

7.3 Use and Retention

(a) We acknowledge that We are receiving from You or from Your Users Personal Information in connection with the performance of the Services hereunder. We shall not use or disclose Personal Information without Your permission or the permission of Your Users (to the extent such permission pertains to their own Personal Information) for any purpose other than fulfilling our obligations under the Agreement.

(b) You hereby give us permission to use, transfer and process Personal Information obtained by Us in connection with the Services as necessary to perform the Services. Subject to applicable law requirements, We will not retain Personal Information for longer than necessary to accomplish such purpose, and We will correct such Personal Information as directed by You or by Your User to the extent such correction pertains to his/her own Personal Information.

8. CONFIDENTIALITY AND RESTRICTIONS

8.1 Confidential Information. Notwithstanding anything else in this Agreement, neither party will, without the prior written approval of the other party, disclose or use for any purpose other than performance of its obligations under this Agreement any information, documents, know-how, trade secrets of the other party, including the terms of this Agreement and such other information that is not in the public domain including, in respect of You, Your Data and, in respect of Us, the Services (collectively, “**Confidential Information**”) that may come to its knowledge or possession by reason of exchange of information under this Agreement or entering into this Agreement.

8.2 Obligation to Protect. Each party will protect the other’s Confidential Information using the same standard of

care that it would use to protect its own, similar information, but in any case no less than a reasonable standard of care.

8.3 Title. All rights, titles and interests (including all Intellectual Property Rights) in and to each party's Confidential Information will be and remain vested in such party subject to the express licenses granted herein.

8.4 Permitted Disclosures. Each party will not disclose Confidential Information of the other party to any employee, agent, sub-contractor or other person except on a strictly "need-to-know" basis, and where such person is bound by confidentiality obligations legally enforceable by such party. Notwithstanding such disclosures, each party will be fully responsible for any breaches of confidentiality caused by such persons to whom the Confidential Information is disclosed as if such breach were committed by such party. Notwithstanding any other provision in this Agreement, either party may disclose the terms of this Agreement (other than Confidential Information of a technical nature) to its Affiliates, solicitors, auditors, insurers or accountants.

8.5 Exceptions. Neither party will have an obligation of confidentiality under §8 with respect to Confidential Information where such party can establish, through documentary evidence, that such information (a) was previously known to it free of any obligation to keep it confidential, (b) is or becomes publicly available other than by unauthorized disclosure, (c) is legally disclosed by third parties without restrictions of confidentiality, or (d) has been independently developed by it without reference to the other party's Confidential Information.

8.6 Governmental Disclosures. Notwithstanding anything else in this Agreement, if a party is required to disclose any Confidential Information to a government body or court of law or as otherwise required by law, it may do so provided that it (a) gives the other party sufficient advance notice as reasonable in the circumstances subject to Applicable Law to enable the owner of such Confidential Information the opportunity to contest the disclosure or obtain a protective order and (b) uses commercially reasonable efforts to assist the owner of such Confidential Information at such owner's expense in contesting or protecting same.

8.7 Return of Information. Except as set out in §11.5 (which fully governs the return of Your Data), upon termination of this Agreement or upon the written instruction of the party owning Confidential Information, the other party will return or destroy the requesting party's Confidential Information, provided that a party will be deemed to have destroyed electronic Confidential Information when it executes an application- or operating system-level, commercially reasonable delete function on it.

8.8 Competitive Users. You acknowledge and agree that the Services and the functionality thereof have competitive value to Us. You will not directly or indirectly permit any personnel, subcontractors or third party service providers that are competitors of the Services or Us to access the Services without Our prior, written consent. From time to time, upon Your request, We will notify You in writing of Our known competitors in respect of Our Services, whose access to the Services is restricted.

9. WARRANTIES AND DISCLAIMERS

9.1 Our Warranties. We warrant to You as follows:

- (a) the Services will perform materially in accordance with the User Guide,
- (b) the functionality of the Services will not be materially decreased during a Software Subscription term, subject to the other provisions of this Agreement,
- (c) as of the effective date of this Agreement, there are no demands, suits, claims, actions or proceedings pending or, to the best of Our knowledge, threatened against Us or any of Our Affiliates which allege the infringement or misappropriation of any third party Intellectual Property Rights based on the use of the Services, and
- (d) we have in place commercially reasonable insurance policies and will provide proof of such policies upon Your reasonable request.

9.2 Exception. The warranties provided by Us in §9.1 do not apply to defects resulting from improper or inadequate installation, maintenance or configuration of Your software or hardware necessary for accessing and using the Services.

9.3 Breaches. You acknowledge and agree that Your exclusive remedy for a breach of §9.1 is set out in §10 and §11, and Schedule A below.

9.4 Mutual Warranties. Each party represents and warrants that (i) it has the legal power to enter into this Agreement, and (ii) it will use commercially reasonable efforts not to transmit to the other party any Malicious Code (except for Malicious Code previously transmitted to the warranting party by the other party).

9.5 No Other Warranties. Other than as specifically provided for in this Agreement,

- (a) the Services are provided on an "as-is" and "as-available" basis, and
- (b) the conditions, representations and warranties expressly set out herein are in lieu of, and We expressly disclaim, all other conditions, warranties and representations, express, implied or statutory, including implied conditions, warranties or representations in respect of quality, conduct, performance, reliability, availability, merchantability or fitness for a particular purpose, whether arising by usage of trade, by course of dealing, by course of performance, at law, in equity, by statute or otherwise howsoever, to the maximum extent permitted by Applicable Law.

10. INDEMNITIES AND LIABILITY

10.1 Indemnification by Us. We will indemnify and hold harmless You and Your Affiliates, and Your respective directors, officers, employees and agents (collectively, in this §10.1, the "**Indemnified Persons**"), from and against any and all liabilities, actions, proceedings, claims, demands, losses, damages and costs, including reasonable legal costs and expenses (collectively, in this §10, "**Claims**"), brought or made against, or incurred by, the Indemnified Persons, or any one of them, to the extent arising from

- (a) a claim by a third party that the Services infringe the Intellectual Property Rights of a third party enforceable in Canada or the United States,
- (b) a claim by a third party that our provision of the Service breaches applicable law,
- (c) Our gross negligence or wilful misconduct, or our breach of §8, or
- (d) Our acts or omissions giving rise to (i) loss of or damage to Your real or tangible property, lands, premises and equipment, or (ii) personal injury or death to an Indemnified Person.

10.2 **Exceptions to Our Indemnity.**

Notwithstanding §10.1, We will not be required to defend or indemnify Your Indemnified Persons if, and to the extent that, the Claim would not have arisen but for:

- (a) indemnities under §10.1(a),
 - (i) Your combination of the Services with software, services or products not supplied or authorized by Us,
 - (ii) any repair or modification to the Services carried out by You or any third party on Your behalf without Our consent,
 - (iii) any breach by You of any provision of this Agreement, or
 - (iv) any refusal by You to use a non-infringing version of the Services offered by SustaiNet under §10.4, or
- (b) indemnities under §10.1(d), the wilful misconduct or gross negligence of any of Your Indemnified Persons.

10.3 **Indemnification by You.** You will indemnify and hold harmless Us and Our Affiliates, and their respective officers, employees and agents (collectively, in this §10.3, Our “**Indemnified Persons**”), from and against any and all Claims brought or made against, or incurred by, Our Indemnified Persons, or any one of them, to the extent arising from

- (a) a claim by a third party that Your Data or (except as indemnified by Us under §10.1) Your use of the Service infringes the Intellectual Property Rights of a third party enforceable in the United States, Canada or any jurisdiction in which We provide Services,
- (b) a claim by a third party that Your Data or (except as indemnified by Us under §10.1) Your use of the Service breaches any applicable law,
- (c) Your gross negligence or wilful misconduct, or your breach of §8, or
- (d) Your acts or omissions giving rise to
 - (i) loss of or damage to Our real or tangible property, lands, premises and equipment, or
 - (ii) injury or death to an Indemnified Person,

except in each case to the extent attributable to the gross negligence or wilful misconduct of Our Indemnified Persons.

10.4 **Additional Infringement Obligations.**

If an indemnifying party (in this Part, an “**Indemnifying Party**”) receives any knowledge of any Claim in respect of

§10.1(a) or §10.3(a), as the case may be, or any circumstances in which a Claim in respect of such provision is threatened or reasonably anticipated, it will, as soon as reasonably practicable,

- (a) procure, at its expense, the right for the other party (in this Part, the “**Indemnified Party**”) to use the Services or Your Data, as the case may be, or such infringing part thereof,
- (b) replace or modify, at its expense, the Services or Your Data, as the case may be, or such infringing part thereof, with material of at least comparable functionality that does not breach this Agreement,
- (c) if the removal of such infringing part of the Services or Your Data, as the case may be, would not be a breach of this Agreement, remove such infringing part of the Services or Your Data, as the case may be, or
- (d) if, and after diligent, good faith and commercially reasonable efforts, the Indemnifying Party has not been able to perform any of the above, terminate this agreement and, if the Claim is indemnifiable by Us under §10.1(a), We will refund to You a *pro rata* portion of the fees paid by You for each outstanding Software Subscription term.

10.5 **Conduct of Indemnities.** Each party acknowledges that the Indemnifying Party will be given complete authority for the defence or settlement of Claims indemnified hereunder, on the understanding that, in all events, the Indemnified Party will have the right (at its own expense) to participate in such defence or compromise through counsel of its choosing.

10.6 **Conditions of Indemnification.** An Indemnifying Party’s obligations to provide an indemnity hereunder will be conditional upon

- (a) the Indemnified Party notifying the Indemnifying Party as soon as reasonably practicable after receiving notice of a Claim,
- (b) the Indemnified Party providing such information and assistance as reasonably requested by the Indemnifying Party, and
- (c) the Indemnified Party not compromising or settling the Claim without the Indemnifying Party’s prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

10.7 **Exclusion and Limit of Liability.** Except in relation to the indemnities provided under §10.1 and §10.3, or a breach of this Agreement with respect to §8, and always subject to §10.10,

- (a) neither party will be liable to the other for (i) any indirect, incidental, special or consequential Claims of any kind whatsoever and however caused, whether arising under contract, tort (including negligence) or otherwise, or (ii) any loss of production, loss of or corruption to data, loss of profits or of contracts, loss of business, loss of management or operation time and loss of goodwill or anticipated savings, regardless of whether any such loss is direct or indirect and even if the party has been notified of the possibility thereof or could have foreseen such Claims, and
- (b) each party’s aggregate liability for direct damages in respect of this Agreement will be limited to the fees paid or

payable to Us by You during the twelve months preceding the circumstances in which such liability arises.

11.8 **Acknowledgement.** You acknowledge and agree that the Services form part of a support system designed to assist You in the performance of Your business activities and further that the Services are not intended to replace the professional skill and judgment of You or Your employees with respect to such activities or compliance with any laws.

11.9 **Exclusive Remedy.** Except as specified in §12.7 this §10 states each party's sole liability to, and its exclusive remedy against, the other party for any type of Claim described in §10.1.

11.10 **Clarification.** Notwithstanding any other provision of this Agreement, nothing in this Agreement will limit either party's liability for death or personal injury resulting from its negligence or for fraud.

11. TERM AND TERMINATION

11.1 **Term of Agreement.** This Agreement commences on the later of the date each party signs it and/or agrees to it in writing and continues until all Software Subscriptions granted in accordance with this Agreement have expired or have been terminated.

11.2 **Term of Purchased Software Subscriptions.** Software Subscriptions purchased by You commence on the Subscription Start Date and continue for the subscription term specified on such Ordering Document. Except as otherwise specified therein, all Software Subscriptions will automatically expire at the end of the subscription period set out in the Ordering Document, unless You complete and remit a signed renewal form (in a form as may be provided by us from time to time) and pay all related invoices in full before the end of the relevant subscription term. The fees payable for any such renewal term will be the same as that during the prior term unless We have given You written notice of a pricing increase at least thirty (30) days before the end of such prior term, in which case the pricing increase will be effective upon renewal and thereafter. Any such pricing increase will not exceed 10% over the pricing for the relevant Services in the immediately prior subscription term, unless the pricing in such prior term was designated in the relevant Ordering Document as promotional or one-time.

11.3 **Termination for Cause.** A party may terminate this Agreement with cause: (i) upon thirty (30) days written notice to the other party of such other party's material breach (such notice to specify reasonable particulars thereof) if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

11.4 **Payment upon Termination.** Upon any termination for cause by Us, You will pay (as liquidated damages approximating Our actual damages from such termination and not as a penalty) any unpaid fees covering the remainder of the term of all Software Subscriptions after the effective date of termination (excluding any optional renewals). In no event will any such termination by Us (a) relieve You of the obligation to pay any fees payable to Us

for the period prior to the effective date of termination, or (b) entitle You to any refund for any pre-paid amounts.

11.5 **Termination in relation to Discounted Rate.** This paragraph applies if Your Ordering Document provides for any discounted rate based on any period of time (such as a year-long subscription or a multi-year subscription term). If so, You may terminate at any stage during the term by ceasing any and all use of the Services and delivering notice to Us of same. In no event will any such termination (a) relieve You of the obligation to pay any fees payable to Us for the period prior to the effective date of termination, or (b) entitle You to any refund for any pre-paid amounts. You also acknowledge that in the case of termination by Us under §11.3, as You were given special discounted pricing, then the discount therefor will be retroactively removed. Accordingly, if We terminate under §11.3, We will calculate and notify You of the "**Difference Payment**" as follows: the amounts you would have paid for the subscription terms that have expired or are then-current based on Our standard, non-discounted pricing will be subtracted from what You actually paid for such expired or then-current subscription terms. If the Difference Payment is positive, You will pay such amount to Us as liquidated damages approximating Our actual damages from such termination and not as a penalty. If the Difference Payment is for any reason negative, We will refund to You such amount.

11.6 **Return of Your Data.** Upon request by You made at any time, including within 30 days after the effective date of termination of a subscription hereunder for any reason, We will make available to You for download a file of Your Data pertaining to such subscription (at Our standard rates therefor if not in connection with a termination of this Agreement) in a commercially-reasonable, standard (such as comma separated value (.csv) or extendible markup language (.xml) format along with attachments in their native format as stored by Us. After such 30-day period after termination, We will have no obligation to maintain or provide any of Your Data and will thereafter, unless legally prohibited, delete all of Your Data in Our systems or otherwise in Our possession or under Our control.

11.7 **Survival.** Without limiting the applicability of other terms and conditions of this Agreement, the terms of this Agreement that, by their nature, are intended to survive any purported or actual termination or expiry of this Agreement will so survive, including §1, §2.3, §2.7, §3.3, §3.4, §3.5, §5.3, §5.4, §5.5, §6, §8, §9.2, §9.3, §9.5, §10, §11, §12 and §13, and all additional terms and conditions necessary for the correct interpretation of the foregoing.

12. DISPUTES

12.1 **Internal Escalation of Disputes.** If any Dispute arises, then

(a) the party initiating this dispute process will notify the other party as soon as reasonably practicable in the circumstances, but in no event later than ten Business Days from the date the Dispute arises, such notification to set out in writing a reasonably-detailed description of the Dispute and a concise statement of the facts supporting it (the "**Initiating Document**"),

(b) the other party will notify the initiating party as soon as reasonably practicable in the circumstances, but in no event later than two Business Days from the Initiating Document, such notification to set out in writing its reasonably-detailed response to the Dispute, its position in respect of the Dispute and concise statement of the facts supporting it,

(c) each party will designate a person with sufficient authority to resolve the Dispute for the purposes of negotiating and resolving the Dispute, and

(d) such designates will attempt to resolve the Dispute through good-faith, responsive, timely and active negotiations.

12.2 Mediation. If, notwithstanding §12.1, the Dispute remains unresolved fifteen Business Days after the Initiating Document, then by way of written notice of either party to the other, the Dispute may be submitted to mediation in accordance with the following provisions:

(a) the parties will use commercially reasonable efforts to resolve the problem via non-binding mediation by the BC International Commercial Arbitration Centre (the “**Mediation Authority**”) and its applicable rules for mediation;

(b) each party will bear its own costs incurred in such mediation, and the parties will equally defray the Mediation Authority’s fees; and

(c) any negotiations pursuant to this §12.2 are confidential, will take place for no more than three consecutive Business Days.

12.3 Arbitration. If, after mediation, the Dispute remains unresolved after thirty (30) Business Days after the Initiating Document, then, by way of written notice of either party to the other, a party wishing to further pursue such Dispute must submit it to final, binding arbitration in accordance with the following provisions:

(a) the arbitration will be conducted in English in Vancouver, British Columbia, under the commercial Arbitration Rules of the BC International Commercial Arbitration Centre] (the “**Arbitration Authority**”);

(b) the arbitration will be conducted by a single arbitrator appointed by the Arbitration Authority unless the parties agree otherwise in writing;

(c) the arbitrator will have experience and expertise in the software industry;

(d) each party will bear its own costs incurred in such arbitration and the parties will equally defray the fees and costs of the Arbitration Authority; and

(e) the arbitration will be private and confidential, and the Arbitration Authority will have the ability to award costs in its final and binding decision.

12.4 Applicability. This procedure will apply to all Disputes, provided that nothing in this §12 will prevent either party from seeking injunctive relief in accordance with §13.7.

13. GENERAL

13.1 Marketing. With prior, written approval by You in respect of each new use, such approval

not to be unreasonably withheld, conditioned or delayed, We may use Your name and/or corporate logo, with an accurate reference in relationship to the use of the Services, in Our marketing materials or on Our website, with a link to Your website.

13.2 Force Majeure. Neither party will be liable for any delay or failure to perform its obligations pursuant to this Agreement if such delay is due to a circumstance beyond the reasonable control of such party which results in such party being unable to observe or perform on time an obligation under this Agreement, including strikes, riots, insurrections, fires, floods, storms, explosions, earthquakes, acts of God, outage or malfunction of telecommunications services, war, governmental action but excluding a lack of credit or an inability to pay as required hereunder (each, in this §13.2, a “**Force Majeure Event**”), provided that the affected party will notify the other party as soon as practicable in the circumstances and resumes performance of its obligations upon the abatement or ceasing of the Force Majeure Event. Without restricting the generality of the foregoing, We will utilize industry-standard technologies and practices to promote and enhance the availability of the Services during Force Majeure Events. You may reasonably, from time to time, request that We describe such efforts, including business continuity plans, backup facilities and other similar materials, and We will comply as soon as practicable in the circumstances. All such information provided by Us in connection therewith will be Confidential Information for the purposes of this Agreement. To the extent that You request additional technologies, plans or practices, this will be handled by way of Ordering Document or subsequent services agreement.

13.3 Applicable Law. The validity, construction and performance of this Agreement (and any claim, dispute or matter arising under or in connection with it or its enforceability) and any non-contractual obligations arising out of or in connection with it will be governed by and construed in accordance with the laws of British Columbia and the federal laws of Canada applicable therein, without reference to its conflict of laws principles. The parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods in connection with this Agreement.

13.4 Waivers. No right or breach under this Agreement will be deemed to be waived except by notice in writing signed by the waiving party, which waiver will not prejudice its rights in respect of any subsequent breach of this Agreement by the other party. Any failure by a party to enforce any clause of this Agreement or right contained in it, or any forbearance, delay or indulgence granted by a party to the other party, will not be construed as a waiver of the first-mentioned party’s rights under this Agreement.

13.5 Assignment. This Agreement may not be assigned in whole or in part by either party without the prior written approval of the other party, but may be assigned in full without the other party’s consent (but on notice to the other party) by a party to (i) an Affiliate of such party, (ii) an acquirer of all or substantially all of such party’s assets, or (iii) such party’s successor by merger, amalgamation, wind-up or other similar corporate reorganization. Any purported assignment in violation of this provision will be void. If there occurs any actual or proposed change in control of You that results or would result in a direct competitor of Us

directly or indirectly owning or controlling (as control is defined in §1.1(b)) You, We may terminate this Agreement as a material breach immediately upon written notice to You and will have no obligation for any refund of fees in connection therewith.

13.6 **Enurement.** This Agreement will enure to the benefit of and be binding upon the parties and their successors, trustees, permitted assigns and receivers.

13.7 **Injunctive Relief.** Each party acknowledges and agrees that a breach by it of the provisions of this Agreement relating to Confidential Information, Intellectual Property Rights, or restrictive obligations may result in immediate and irreparable harm to the other party for which compensation would be an inadequate remedy. Accordingly, each party acknowledges and agrees that the other party may seek, as a matter of right and without the necessity of establishing the inadequacy of monetary damages, injunctive or other equitable relief to prevent or remedy such conduct from any court of appropriate jurisdiction.

13.8 **Notices.** All notices, permissions and approvals hereunder will be in writing and will be deemed to have been given upon: (i) personal delivery, (ii) the fourth Business Day after mailing by registered mail, or (iii) the second Business Day after sending by confirmed facsimile. Notices to You will be addressed to Your Administrator as designated by You for Your relevant Account using the procedures set out on the Website, and in the case of billing-related notices, to the relevant billing contact designated by You therein.

13.9 **Entire Agreement.** This Agreement, and any Schedule, exhibit or addendum hereto as well as any applicable Ordering Document, constitutes the entire Agreement between the parties and supersedes all prior representations, agreements, statements and understandings, whether verbal or in writing. Neither party has relied on any representations, agreements, statements or understandings except as set out in this Agreement. In connection therewith,

(a) to the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any Schedule, exhibit or addendum hereto or any Ordering Document, the terms of such exhibit, addendum or Ordering Document will prevail, and

(b) no terms or conditions stated in Your purchase order or other order documentation (excluding Our Ordering Documents) will be incorporated into or form any part of this Agreement, and all such terms or conditions will be null and void, notwithstanding any provision therein.

13.10 **Amendments.** Without limiting our ability to amend the Service from time to time provided that it is consistent with this Agreement, this Agreement may not be amended except in writing signed by both parties.

13.11 **Severability.** If any term or provision of this Agreement will be found by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable, the same will not affect the other terms or provisions hereof or the whole of this Agreement, but such terms or provisions will be deemed modified to the extent necessary in the court's opinion to render such terms or provisions enforceable, and the rights and obligations of the parties will be construed and enforced accordingly, preserving to the fullest permissible extent the intent and agreements of the parties herein set forth.

13.12 **Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

13.13 **No Third-Party Beneficiaries.** There are no third-party beneficiaries to this Agreement.

13.14 **English Language.** The parties have requested and agree that this Agreement and all documents relating thereto be drawn up in English. *Les parties ont demandé que cette convention ainsi que tous les documents qui s'y rattachent soient rédigés en anglais.*

SCHEDULE A
SUPPORT SERVICES

1. Definitions

1.1 In this Schedule A,

(a) all capitalized terms that are not defined in this Schedule A will have the meaning assigned to them in the Agreement,

(b) “**Agreement**” means the StakeTracker Master Subscription Agreement between SustaiNet Software International Inc. and You, to which this Schedule A is attached and forms an integral part thereof,

(c) “**Defect**” means any material, reproducible or recurrent defect or failure of the Purchased Services whereby the Purchased Services fail or cease to perform in material conformity with its User Guide or any provision of this Agreement,

(d) “**Resolution**” means the total correction of any given Defect in the Purchased Services such that original or intended functionality of the Services is totally or substantially restored in accordance with its documentation and the Agreement without the necessity to resort to a Workaround, and is usually accomplished by re-configuration of the Services or the provision of an Enhancement,

(e) “**Support Case**” means a question related to the Purchased Services or reported Defect,

(f) “**Support Centre**” means Our support centre available by clicking on the “StakeTracker Help Center” link within the “Customer Support” section of the Services, through e-mail (support@staketracker.com), by telephone (1-800-763-1686 or 604-717-4327) and by fax (604-736-9531), and

(g) “**Workaround**” means the provision of a series of steps that can be taken for any given Defect with the Purchased Services such that original or intended functionality is substantially, though not necessarily permanently, restored through an amount of additional effort by You that is not unreasonable in the circumstances.

2. Support Services

2.1 **Support.** We will provide to You, as an independent contractor of You, Support for the Purchased Services through Our Support Centre during Business Hours in accordance with §3 of this Schedule A.

2.2 **Time of Performance.** Unless otherwise set out in the applicable Statement of Work or this Schedule, the parties generally expect that the Support will be performed between 8:30am and 5:00pm Pacific time on Business Days (the “**Business Hours**”).

2.3 **Standard of Performance.** We represent, warrant and covenant that the Support will be performed (a) in a timely, competent and professional manner in accordance with the highest standards and practices commonly expected of qualified and

experienced providers of similar services, (b) in compliance with all Applicable Law, and (c) only with Us having taken reasonable steps to comply with Your reasonable security requirements in effect at Your premises and with respect to Your computer systems as notified to Us from time to time in writing.

2.4 **Your Assistance.** You acknowledge and agree that, in order to perform the Support in a full, efficient and timely manner, We will require Your reasonable assistance from time to time. Without limiting that general statement, You will, in a reasonable and timely manner not adversely impacting Our ability to perform the Support and as required by Us to properly carry out the Support, (a) provide Our personnel with ready access to Your premises and computer systems (including DNS and Your server access) subject always to your security policies and written authorization, and (b) meet or communicate with Us with respect to the performance of the Support at mutually-agreeable times to review the status and progress in outstanding Support issues.

2.5 **External Services.** If You have retained personnel other than Us to provide, or if You have Your personnel providing, other services (“**External Support**”) related to the project for which the Purchased Services are being utilized, We will have no responsibility or liability for such External Support, and We will not be responsible for any delays or failures to perform to the extent caused by any provider of External Support.

2.6 **Subcontracting.** We may, without Your prior written consent, subcontract or delegate any or all of its Support obligations under this Schedule A provided that at all times We remain fully responsible therefor as if undertaken by Us.

3. Support

3.1 **Maintenance and Enhancements.** We will provide maintenance of the Purchased Services as required to maintain the performance, integrity and functionality of the Purchased Services during the term of this Agreement, together with Enhancements as and when same are developed by Us.

3.2 **New Products.** We will make available New Products as and when same are developed by Us.

3.3 **Support.** We will provide user and technical support for the Purchased Services as specified in §A2 through Our Support Centre during Business Hours, and in connection therewith:

(a) **Key Contact**—You agree to appoint a primary key contact individual as well as a back-up key contact individual (each a “**Key Contact**”), who will be Our primary contact with You for the performance of the Support and the distribution of all relevant information regarding the Purchased Services, and Your Administrator is the first such Key Contact.

(b) **General Support Procedures**—We suggest that the Key Contact is responsible to Your users to first determine if a particular question or problem can be addressed internally, and if the Key Contact is unable to answer the question or if there is a Defect, the user or the Key Contact may submit a Support Case by contacting the Support Centre as set out above.

(c) **Receipt of Support Cases**—Upon receipt of a Support Case, We will

- (i) provide an initial response to confirm receipt of the Support Case,
- (ii) review the Support Case and will either, (A) respond via email to the sender as to the Workaround or Resolution to the Support Case within one Business Day, (B) contact the user directly to request further information regarding the Support Case within one Business Day, or (C) respond by email with an assessment of the Support Case within one Business Day, and, if practicable in the circumstances, will include a Workaround in respect of the Support Case,
- (iii) remedy the Purchased Services if the Support Case relates to a Defect, (A) if We have not provided a Workaround, as an Enhancement as soon as practicable, and (B) if We have provided a Workaround, as part of Our general Enhancement process, and
- (iv) from time to time, advise the originator of the Support Case of the status of all open Support Cases.

(d) **Emergency Notifications**—If Our Hosting Provider alerts Us that its data center detects a failure that relates to the availability of the Purchased Services, We will as soon as practicable notify the Key Contact by e-mail, and will keep the Key Contact apprised of the situation until the problem is resolved. If, during any period of Purchased Services unavailability, the Key Contact has not received such notification, the Key Contact may directly contact the Support Centre as set out herein.

(e) **Content of Support Cases.** All correspondence relating to a particular Support Case will form part of that Support Case. You will use commercially reasonable efforts to advise Your Users and Key Contacts that each Support Case should contain sufficient information to enable Our Support Centre to diagnose the nature of the Support Case and provide a Workaround or Resolution, as appropriate. If You or Your Users suspect that any Support Case relates to a Defect, You will ensure that Your Users and Key Contacts will indicate same in the originating Support Case and, where possible, the particulars, steps and transactions if it is a repeatable or reproducible Defect.

4. Minimum Configuration Requirements.

4.1 You will ensure that Your computer systems meet the minimum configuration and specification requirements for access to the Purchased Services, and You acknowledge and agree that We will have no obligation to support the Purchased Services in respect of computer systems that do not meet such requirements. The following are the current minimum requirements, which may change from time to time upon notice by Us to You:

Hardware:

- Intel Pentium IV 3.0 GHz, or better CPU
- Intel main board, or better
- 4 Gigabyte (GB) of RAM or more
- 100/1000 Gigabit Adaptor, or equivalent

- Super VGA 1024 X 768, or higher resolution monitor
- JavaScript, cookies, and SSL/TLS enabled
- High-speed Internet connection: Min. 2.0 Mbps or better (downstream rate)

Software:

- Windows 10 with the latest Service Pack
- Microsoft Office 2013, 2016 or Office 365 (MS Word, MS Excel, MS Outlook)
- Web Browsers (with TLS 1.2 encryption enabled):
 - MS Internet Explorer Ver. 11
 - MS Edge
 - Firefox, latest versions
 - Chrome, latest versions
 - Safari
- PDF viewer (Adobe Acrobat Reader, Ver. 9 or later, or equivalent)
- POP3/SMTP Email Client
- Android 5, or later
- iOS 5, or later

5. Services Availability.

5.1 **Backups.** Our Hosting Provider will back up Your Data on a nightly basis and store such backed-up data on site. Our Hosting Provider will also back up Your Data on a weekly, monthly and yearly basis and store such backed-up data off-site in a separate, physical, Canadian location as it does for the production or live copy of Your Data. Such backups will consist of the latest version of Your Data at the time the backup is made, and You acknowledge that neither We nor Our Hosting Provider will have any obligation to retain backups for longer than twelve (12) months. In any event, We have implemented emergency procedures and have made arrangements with Our Hosting Provider that will enable You to access backups of Your Data within three (3) hours of the Purchased Services going down.

5.2 **Scheduled Maintenance.** We will notify You at least forty-eight (48) hours in advance of any required downtime for scheduled maintenance, Enhancements to the Purchased Services or upgrades to the systems in Our Hosting Provider's data center ("**Scheduled Maintenance**") by e-mail or through a "splash screen" in the login section of the Purchased Services. We will use commercially reasonable attempts to schedule and perform Scheduled Maintenance during low use hours based on average use by Our customers. With respect to Scheduled Maintenance,

(a) the window for Scheduled Maintenance will generally be during a single, continuous 4-hour period between Friday 6:00pm Pacific time and Sunday 11:00pm Pacific time, with the specific hours indicated on the advance notification,

(b) Scheduled Maintenance will generally take place over the last weekend of the month, except that if such weekend is adjacent to a Canadian statutory holiday, Boxing Day or Easter Monday, Scheduled Maintenance may be rescheduled on forty-eight (48) hours' notice as set out above, and

(c) Scheduled Maintenance will average no more than three (3) hours per calendar month over the course of a calendar year.

5.3 **Emergency Maintenance.** We are permitted to conduct emergency maintenance, meaning any critical maintenance or

Enhancements to the Services or the systems in the data center at which the Services are located (“**Emergency Maintenance**”), on an as-needed basis, provided that We notify You in advance as soon as reasonably practicable in the circumstances using the notification methods available through the Purchased Services. Any Scheduled Maintenance performed during Business Hours will count as Emergency Maintenance for the purposes of this provision.

5.4 **Service Availability.** Subject to §3.5 of the Agreement, We will ensure that the number of hours that the Purchased Services are actually available, not taking into account Scheduled Maintenance (except to the extent that it exceeds the average set out in §5.2(c) of this Schedule) but taking into account Emergency Maintenance (the “**Available Hours**”), meet or exceed 99.5% of the time during each year of this Agreement (the “**Minimum Hours**”). Notwithstanding the foregoing,

(a) there will be no reduction in the Available Hours to the extent that the Purchased Services are restricted, prevented or delayed by any Force Majeure Event,

(b) while the Purchased Services may be available during any particular period, Your access will depend on the Internet, including networks, cabling, facilities and

equipment that are not in the control of Us and there will be no reduction in the Available Hours for such Internet-based unavailability, and

(c) there will be no reduction in the Available Hours to the extent that the Purchased Services are not available to any of Your computer systems that do not comply with the minimum requirements set out in §4 of this Schedule.

5.5 **Remedy for Unavailability.** If, over the course of a year, the Available Hours are less than the Minimum Hours, We will refund (or credit against future fees) to You a pro-rated portion of the fees paid by You in connection with the license of the Purchased Services, calculating by taking the greater of

(a) \$0, and

(b) the result of the formula: $A - [(B / C) \times A]$, where

(i) “**A**” equals the fees paid by You in connection with the license and Support of the Purchased Services for such year,

(ii) “**B**” equals the amount of Available Hours in such year, and

(iii) “**C**” equals the Minimum Hours.

[END SCHEDULE A]

STAKETRACKER™ MASTER SUBSCRIPTION AGREEMENT

SCHEDULE B SUSTAINET PRIVACY POLICY

This privacy and data protection policy (this “**Policy**”) describes SustaiNet Software International Inc.’s and its subsidiaries’ and affiliates’ (collectively, “**SustaiNet**”, “**we**”, “**us**” or “**our**”) practices with respect to the collection, use, storage and disclosure of personal information and data it collects about the users of its software, services and website (“**you**”, “**your**”, or “**User**”).

1. Introduction

SustaiNet respects and upholds your right to privacy and the protection of personal information.

“**Applicable Privacy Legislation**” regulates the way we collect, use, keep, secure and disclose your personal information.

If you are in Canada, for example, the *Personal Information Protection and Electronic Documents Act* (Canada), as amended from time to time, is the Applicable Privacy Legislation that applies to you, your personal information or data (as it does to us).

If you are in the European Union, the General Data Protection Regulation, as amended from time to time (“**GDPR**” or “**EU Data Protection Legislation**”), as well as any applicable EU Member State regulations, as amended from time to time, are all the Applicable Privacy Legislation for you, your personal information and data.

As required by Applicable Privacy Legislation, we have appointed a Privacy Officer who is responsible for compliance with this Privacy Policy and Applicable Privacy Legislation. Information on how to contact the Privacy Officer can be found in Section 13 below.

2. Collection and Use of Personal Information

SustaiNet collects and processes your personal information and data (“**Personal Data**”) in accordance with, and as defined under, the Applicable Privacy Legislation.

SustaiNet offers a variety of services (the “**Services**”) including (a) public access to the SustaiNet website (the “**Website**”), (b) access to web-enabled software applications (the “**Software**”) for use by organizations in tracking, monitoring and reviewing public participation, stakeholder consultations and community engagement projects (“**Consultation Projects**”), and (c) outsourced hosting of Consultation Projects.

SustaiNet collects and uses Personal Data from Users who have the right to use the Software on the Internet in connection with managing Consultation Projects or who have set up an account to access the Services as well as Users who visit the Website.

3. Personal Data Collected Directly From You

The Personal Data that SustaiNet may collect directly from you when using our Services include your name, email address, telephone number, other contact information, credit card number and other billing information, a password (which is irreversibly encrypted with a salted one-way hash and stored this way) you choose for your account, and any secret question(s) and answer(s) in case you forget your password. We will only collect such information with your consent, except for the situations described in Section 6.

SustaiNet may also collect from you Personal Data that you choose to post to or upload into a Consultation Project, which may include: name, address, phone, fax, email, contact information, organization, stakeholder group, land parcel (property) location, land interest, comments, issues, concerns, objections, interests, attitudes, demographics and any other such information as is required by the Project Client for the purposes of managing its Consultations Projects. If such information includes Personal Data of third parties, you must ensure that you are authorized under applicable law (including but not limited to Applicable Privacy Legislation such as the GDPR if applicable to that person) to collect and use such Personal Data prior to posting or uploading same.

4. Information We Collect Automatically Through Cookies and Similar Technologies

SustaiNet may also collect data concerning traffic on, and use of, the Website, the Software or the Services and may include non-personal data such as, IP addresses, page tags, user site or Software performance, and other such information required for logfile analysis and web analytical purposes.

You can find out more about our use of cookies by accessing our Cookie Policy.

5. Purposes for Which We Collect, Use and Process Personal Information

SustaiNet limits the Personal Data it collects and uses to that which is necessary to fulfill the purposes identified below. SustaiNet will not collect, sell, distribute or use Personal Data for any other purposes without your further consent, as required by law or as authorized by Applicable Privacy Legislation.

We may collect Personal Data in the following situations for the following purposes:

- *when you request information via the Website*, SustaiNet may collect Personal information (e.g. name, address, company, contact information) to enable a direct response to your request;
- *when you subscribe to or purchase a license to use the Software*, SustaiNet may collect Personal Data (e.g. name, address, contact

information, credit card number) to verify your identity and to charge you for the license;

- *when you subscribe to or purchase a license to use the Software*, Personal Data are collected on individuals using the Software and on individuals entered into the Software database in order to manage Consultation Projects;
- *if you wish to set up an account with SustaiNet to access the Services*, SustaiNet will collect Personal Data from you to verify your identity and to determine which Consultation Projects you are entitled to access;
- *when you login to your account*, SustaiNet will collect Personal Data from you to verify your identity and to prevent unauthorized access to the Services and any Consultation Projects;
- *if you request support*, additional information about the Software, or if you request a demonstration version of the Software, SustaiNet may collect Personal Data from you so that SustaiNet can contact you and provide you with these services;
- *for statistical analysis* in order to improve the Website and the Services, we collect data concerning traffic on, and use of, the Website;
- *to provide the Services*; and
- *to inform you of product updates, special offers, new services and products, partners, promotions, events and updated information that may be pertinent to you and to generally keep you informed about SustaiNet and its customers via newsletters.*

6. Legal Bases Upon Which We Process Your Personal Data

As set out above we only process your Personal Data:

- with your consent;
- for performing the Services you have ordered or, upon your request, to take the steps necessary to provide you with such Services;
- in the furtherance of our legitimate interests in maintaining business relationships and communicating with you as a business contact, about SustaiNet activities and Services. For greater certainty, if the GDPR applies to you, we consider that our legitimate interests are in compliance with EU Data Protection Legislation and your legal rights and freedom, and you have the right to object to any of this processing—if you wish to exercise the right to object, please contact our Privacy Officer, or
- to comply with a legal obligation set up by an applicable regulator, such as in Canada to comply with the

requirements of a privacy commissioner or in the EU to comply with an EU Member State law or the requirements of a data protection authority.

7. Sharing of Personal Data

The only circumstance under which SustaiNet may disclose your Personal Data to a third party is for the fulfillment of any of the purposes identified above, as required by applicable law or as authorized by Applicable Privacy Legislation.

In order to provide the Services, SustaiNet may hire other companies or contractors to provide certain services on its behalf, for example to provide Website and Software hosting and support services or for marketing purposes. Such service providers are only permitted to access and use Personal Data necessary to provide such services. They are required to protect your Personal Data and must agree to adhere to this Policy.

If you participate in a Consultation Project, any Personal Data you submit may be accessed, used or otherwise processed by other individuals, groups or organizations, including (if permitted in respect of such Consultation Project) the public at large. The Client that has engaged us to host the Consultation Project (the “**Project Client**”) has control over all information submitted to the Consultation Project (this includes those who may participate in the Consultation Project, what data and other information may be accessible through the Consultation Project and who may access, post, modify or delete such data and other information). If you have any questions about who may access the Personal Data you submit in a Consultation Project, you should contact the Project Client.

8. Transfer of Personal Data

You authorise SustaiNet to transfer, process, store and use the Personal Data we collect about you and other information you submit as part of a Consultation Project in countries other than your own in accordance with this Policy. Some of these countries may not have the same data protection safeguards as the country where you are located.

SustaiNet processes the information collected through its Software in Canada. For the purposes of the GDPR, Canada provides an adequate level of protection to personal data pursuant to EU Data Protection Law and other Applicable Privacy Legislation.

SustaiNet may transfer your Personal Data to third party services providers located abroad, including in the United States. These service providers assist us with the operation of the Website as well as with our marketing and business communications efforts. We ensure, through contractual provisions, that these service providers process Personal Data in accordance with Applicable Privacy Legislation to guarantee a high data protection level, even if Personal Data are transferred into a country in which another data protection level is common and for which no decision of adequacy by the European Commission exists.

9. Withdrawing Consent

Where you have provided your consent to our use of your Personal Data, you have the right to withdraw your consent to our processing of your Personal Data at any time. Please contact our Privacy Officer to exercise such right. Similar to the way in which you can

give consent by interacting with our Services, you can also withdraw your consent through our Services. You can choose to delete your SustaiNet account via your account settings and we will delete your information.

If you withdraw your consent to the use or sharing of your Personal Data for the purposes set out in this Policy, you may not have access to all (or any) of our Services and we might not be able to provide you with all (or any) of the Services. In certain cases, we may continue to process your Personal Data and the information you submitted as part of a Consultation Project after you have withdrawn consent if we have a legal basis to do so, or if your withdrawal of consent was limited to certain processing activities. For example, we may keep information if we need to do so to comply with a legal obligation, to resolve disputes and to enforce our agreements.

10. Security of Personal Information

SustaiNet has implemented technical, organisational and administrative measures to protect your data from unauthorized access, loss or theft, modification and other threats. Personal Data are protected by security safeguards that are appropriate to the sensitivity level of the information. Our employees, affiliates and third party providers are required to sign contracts obliging them to protect the privacy and confidentiality of Personal Data provided to them, and is to observe the intent of this Policy, in order to perform their function. This obligation remains in effect even after employees, affiliates and third party services providers leave the employ of or association with SustaiNet. Appropriate controls are in place over computer systems and these controls are reviewed on an ongoing basis to ensure compliance with our security and privacy policy.

11. Personal Data Subject Rights

SustaiNet will only retain Personal Data for as long as necessary to fulfill the purposes identified in this Policy or as long as required for legal or business purposes. You can also review or correct your account information, including the Personal Data you provided us with, on your account page.

In other circumstances, you may have other rights depending on your jurisdiction and the Applicable Privacy Legislation, which allows you the right to access your Personal Data that is in the custody or under the control of SustaiNet as well as the right to request the correction of inaccuracies of same. SustaiNet's Privacy Officer will assist you with these requests. Applicable Privacy Legislation will always govern, but these rights include:

- (a) identifying your Personal Data;
- (b) informing you about how your Personal Data may be or has been used by SustaiNet;
- (c) providing you with the names of those organizations to which we have or may have disclosed your Personal Data;

- (d) granting you access to your Personal Data; and
- (e) correcting or amending any Personal Data which is factually incorrect or incomplete.

If the GDPR applies to you then, in accordance with the GDPR, SustaiNet will assist you in exercising the rights afforded to you under the GDPR, including:

- (a) in certain circumstances, such as those described in the 'legitimate interests' paragraph of Section 6 above, you also have the right to object to the processing of your Personal Data by us,
- (b) you can request the rectification of your information by SustaiNet,
- (c) you can request that we delete your information, and we will carry out this request unless Applicable Privacy Legislation or other laws applicable to us mandate that we retain the data,
- (d) you also have the right to obtain a copy of your information in an easily accessible format, and
- (e) in certain circumstances, you can also request that we transfer some of your information to third parties.

Please contact our Privacy Officer should you need any assistance in exercising any of the above rights.

12. Changes to this Policy

The Services and our business may change from time to time. As a result, at times it may be necessary for SustaiNet to make changes to this Policy. We reserve the right to update or modify this Policy at any time and from time to time without prior notice. Please review this policy periodically. This Policy was last updated on the date indicated above. Your continued use of the Services after any changes or revisions to this Policy shall indicate your agreement with the terms of such revised Privacy Policy.

13. Privacy Officer and Questions

Questions or concerns regarding this Policy should be directed to our Privacy Officer:

Howard Adam, President
SustaiNet Software International Inc.
Suite 400 – 1681 Chestnut Street
Vancouver, BC V6J 4M6
dataprotectionofficer@sustainet.com
(604) 717-4327

[END SCHEDULE B]