

DOCKET NO. WR-- 4141 Sub 0

FILING FEE RECEIVED

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

APPLICATION FOR CERTIFICATE OF AUTHORITY TO CHARGE FOR WATER AND/OR SEWER SERVICE AND FOR
APPROVAL OF RATES FOR APARTMENT COMPLEXES AND MANUFACTURED HOME PARKS

INSTRUCTIONS

If additional space is needed, supplementary sheets may be attached. If any section does not apply, write "not applicable".

APPLICANT

1. Name of owner SUMMERLYN PLACE OWNER LLC
2. Business mailing address of owner 11 Grace Avenue, Suite 201
City and state Great Neck, NY Zip code 11021
3. Business telephone number (212) 944-1700 Business fax number _____
4. Business email address max@riverbirch.co

PROPOSED UTILITY SERVICE AREA

5. Name of Apartment Complex or Manufactured Home Park Summerlyn Place
6. County (or counties) Alamance
7. Type of Service (Water and/or Sewer) Water, sewer, stormwater
8. Supplier of purchased water City of Burlington
9. Supplier of purchased sewage treatment City of Burlington
10. Number of customers - Water 140 Sewer 140
11. Number of customers that can be served (including present customers, vacant units or lots, etc.):
Water 140 Sewer 140
12. For manufactured home parks, are all lots to be served owned by the Applicant? (yes or no) N/A

PROPOSED RATES

(Amount Applicant Proposes to Charge)

13. Water usage rate (not to exceed supplier's unit consumption rate): \$3.91
14. Sewer usage rate (not to exceed supplier's unit consumption rate): \$5.21
15. Are the usage rates listed above per ccf or per 1,000 gallons? 1,000 gallons
16. Monthly administrative fee: \$3.75
(NOTE: NCUC Rule R18-6(a) specifies that no more than \$3.75 may be added to the cost of purchased water and sewer service as an administrative fee to compensate the provider for meter reading, billing, and collection. An additional administration fee amount may be requested to compensate the provider for administrative fees imposed by the supplier)
17. Bills past due 25 days after billing date (NCUC Rule R18-7(d) specifies that bills shall not be past due less than twenty-five (25) days after billing date).

PERSONS TO CONTACT

- | | <u>NAME</u> | <u>ADDRESS</u> | <u>TELEPHONE</u> |
|---|------------------------------|---|---------------------|
| 18. Management Company | <u>TriPoint Properties</u> | <u>1315 S Main St, Winston-Salem, NC</u> | <u>951-744-0991</u> |
| 19. Complaints or Billing | <u>YES Energy Management</u> | <u>9910 Federal Drive Ste 100
Colorado Springs CO 80921</u> | <u>800-637-4242</u> |
| 20. Emergency Service | <u>" "</u> | <u>" "</u> | <u>" "</u> |
| 21. Filing and Payment of Regulatory Fees to Utilities Commission | <u>Max Platoff</u> | <u>PO Box 306, Raleigh, NC 28702</u> | <u>917-833-7297</u> |

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REQUIRED EXHIBITS

1. If the Applicant is a corporation, LLC, LP, etc., enclose a copy of the certification from the North Carolina Secretary of State (Articles of Incorporation or Application for Certificate of Authority for Limited Liability Company, etc.). **(Must match name on Line 1 of application.)**
2. If the Applicant is a partnership, enclose a copy of the partnership agreement. **(Must match name on Line 1 of application.)**
3. Enclose a copy of a Warranty Deed showing that the Applicant has ownership of all the property necessary to operate the utility. **(Must match name on Line 1 of application.)**
4. Enclose a vicinity map showing the location of the apartment complex or manufactured home park in sufficient detail for someone not familiar with the county to locate the apartment complex or manufactured home park. (A county roadmap with the apartment complex or manufactured home park outlined is suggested.)
5. Enclose maps of the apartment complex or manufactured home park in sufficient detail to show the layout of streets, apartment buildings or manufactured home lots, and water and/or sewer mains.
6. Enclose a copy of the supplier's schedule of rates that will be charged to the provider for purchased water.
7. Enclose a copy of the supplier's schedule of rates that will be charged to the provider for purchased sewage treatment.
8. Enclose a copy of any agreements or contracts that the Applicant has entered into covering the provision of billing and collecting and meter reading services to the apartment complex or manufactured home park.
9. If the provider is requesting to include the supplier's administrative fee in its administrative fee, enclose an exhibit listing the master meters serving the apartment complex or mobile home park, indicating for each master meter the size of the meter. Apartment complexes should also indicate the number of apartment buildings served by the meter, and the number of apartments in each apartment building.

FILING INSTRUCTIONS

10. Submit one (1) original application with required exhibits and **original notarized signature** to: [USPS address] Chief Clerk's Office, North Carolina Utilities Commission, 4325 Mail Service Center, Raleigh, North Carolina 27699-4325, or [overnight delivery at street address] Chief Clerk's Office, North Carolina Utilities Commission, 430 North Salisbury Street, Raleigh, North Carolina 27603. Provide a self-addressed stamped envelope, plus an additional copy, if a file-stamped copy is requested by the Applicant.
11. Enclose a filing fee as required by G. S. §62-300. A Class A company (annual revenues of \$1,000,000 or more) requires a \$250 filing fee. A Class B company (annual revenues between \$200,000 and \$1,000,000) requires a \$100 filing fee. A Class C company (annual revenues less than \$200,000) requires a \$25 filing fee. **MAKE CHECK PAYABLE TO N.C. DEPARTMENT OF COMMERCE/UTILITIES COMMISSION.**

SIGNATURE

12. Application shall be signed and verified by the Applicant.

Signature Maxwell E. Platoff

Date 10-18-22

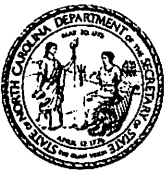
13. (Typed or Printed Name) Maxwell Platoff
personally appearing before me and, being first duly sworn, says that the information contained in this application and in the exhibits attached hereto are true to the best of his/her knowledge and belief.



This the 18th day of October, 2022

Joshua Ray
Notary Public

My Commission Expires: 07-18-23
Date



NORTH CAROLINA

Department of the Secretary of State

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Oct 25 2022

To all whom these presents shall come, Greetings:

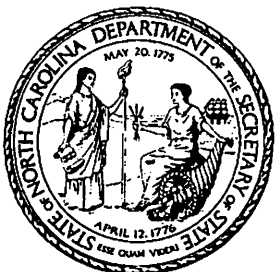
I, ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, do hereby certify the following and hereto attached to be a true copy of

APPLICATION FOR CERTIFICATE OF AUTHORITY

OF

SUMMERLYN PLACE OWNER LLC

the original of which was filed in this office on the 11th day of January, 2022.



Scan to verify online.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 11th day of January, 2022.

Elaine F. Marshall

Secretary of State

State of North Carolina
Department of the Secretary of State

APPLICATION FOR CERTIFICATE OF AUTHORITY
FOR LIMITED LIABILITY COMPANY

Pursuant to §57D-7-03 of the General Statutes of North Carolina, the undersigned limited liability company hereby applies for a Certificate of Authority to transact business in the State of North Carolina, and for that purpose submits the following:

1. The name of the limited liability company is SUMMERLYN PLACE OWNER LLC;

and if the limited liability company name is unavailable for use in the State of North Carolina, the name the limited liability company wishes to use is _____.

2. The state or country under whose laws the limited liability company was formed is Delaware.

3. Principal office information: (Select either a or b.)

a. ☒ The limited liability company has a principal office.

The principal office telephone number: 212-658-0755.

The street address and county of the principal office of the limited liability company is:

Number and Street: 11 Grace Avenue, Suite 201

City: Great Neck State: NY Zip Code: 11021 County: Nassau

The mailing address, if different from the street address, of the principal office of the corporation is:

Number and Street: _____

City: _____ State: _____ Zip Code: _____ County: _____

b. ☐ The limited liability company does not have a principal office.

4. The name of the registered agent in the State of North Carolina is: United Corporate Services, Inc.

5. The street address and county of the registered agent's office in the State of North Carolina is:

Number and Street: 1176 Mine Lake Court, Suite 100

City: Raleigh State: NC Zip Code: 27615 County: Wake

6. The North Carolina mailing address, if different from the street address, of the registered agent's office in the State of North Carolina is:

Number and Street: _____

City: _____ State: NC Zip Code: _____ County: _____

APPLICATION FOR CERTIFICATE OF AUTHORITY

Page 2

7. The names, titles, and usual business addresses of the current company officials of the limited liability company are:
(use attachment if necessary) (This document must be signed by a person listed in item 7.)

<u>Name and Title</u>	<u>Business Address</u>
David Natanov, Manager	11 Grace Avenue, Suite 201, Great Neck, NY 11021

8. Attached is a certificate of existence (or document of similar import), duly authenticated by the secretary of state or other official having custody of limited liability company records in the state or country of formation. **The Certificate of Existence must be less than six months old. A photocopy of the certification cannot be accepted.**

9. If the limited liability company is required to use a fictitious name in order to transact business in this State, a copy of the resolution of its managers adopting the fictitious name is attached.

10. (Optional): Please provide a business e-mail address: Privacy Redaction
The Secretary of State's Office will e-mail the business automatically at the address provided above at no cost when a document is filed. **The e-mail provided will not be viewable on the website.** For more information on why this service is offered, please see the instructions for this document.

11. This application will be effective upon filing, unless a delayed date and/or time is specified: _____

This the 5th day of January, 2022

SUMMERLYN PLACE OWNER LLC

Name of Limited Liability Company



Signature of Company Official

David Natanov, Manager

Type or Print Name and Title

Notes:

1. Filing fee is \$250. This document must be filed with the Secretary of State.

BUSINESS REGISTRATION DIVISION
(Revised July 2017)

P.O. BOX 29622

RALEIGH, NC 27626-0622
(Form L-09)

Delaware

The First State

Page 1

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY "SUMMERLYN PLACE OWNER LLC" IS DULY FORMED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN GOOD STANDING AND HAS A LEGAL EXISTENCE SO FAR AS THE RECORDS OF THIS OFFICE SHOW, AS OF THE TENTH DAY OF JANUARY, A.D. 2022.

AND I DO HEREBY FURTHER CERTIFY THAT THE SAID "SUMMERLYN PLACE OWNER LLC" WAS FORMED ON THE FIFTH DAY OF JANUARY, A.D. 2022.

AND I DO HEREBY FURTHER CERTIFY THAT THE ANNUAL TAXES HAVE BEEN ASSESSED TO DATE.



6520003 8300

SR# 20220081482

You may verify this certificate online at corp.delaware.gov/authver.shtml

A handwritten signature in black ink, appearing to read "JB", is written over a horizontal line. Below the line, the text "Jeffrey W. Bullock, Secretary of State" is printed in a small font.

Authentication: 202360818

Date: 01-10-22



NORTH CAROLINA

Department of the Secretary of State

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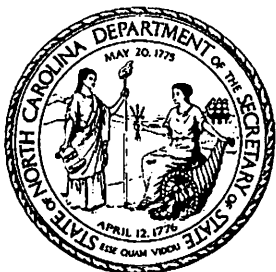
Oct 25 2022

CERTIFICATE OF AUTHORITY

I, ELAINE F. MARSHALL, Secretary of State of the State of North Carolina, do hereby certify that

SUMMERLYN PLACE OWNER LLC

having filed on this date an application conforming to the requirements of the General Statutes of North Carolina, a copy of which is hereto attached, is hereby granted authority to transact business in the State of North Carolina.



Scan to verify online.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 11th day of January, 2022.

Elaine F. Marshall

Secretary of State

As of the Date of this Certification, On the Real Property described in this Deed, there are No Delinquent Taxes Owed which are (1) ad valorem County Taxes, (2) ad valorem Municipal Taxes collected by Alamance County or (3) any other taxes collected by Alamance County.

Date: 2-18-2022
Deputy/Tax Collector: Ferny Modier

→ BTM, P.A.
PO DRAWER 25008
WINSTON SALEM, NC 27114-5008

Doc ID: 013987000008 Type: CRP
Recorded: 02/18/2022 at 04:28:16 PM
Fee Amt: \$53,026.00 Page 1 of 8
Revenue Tax: \$53,000.00
Alamance, NC
David Barber Register of Deeds
BK **4305** PG **287-294**

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Oct 25 2022

NORTH CAROLINA SPECIAL WARRANTY DEED

Excise Tax: \$ 53,000.00

Parcel Identifier No.: 112793

This property conveyed does not include the primary residence of Grantor

Return to: Grantee

Prepared by: Weatherspoon & Voltz LLP (without benefit of title examination)

Brief description for the Index: 750 Boone Station Drive, Burlington, North Carolina 27215

THIS DEED made this 14th day of February, 2022, by and between

GRANTOR

LHNH SUMMERLYN PLACE LLC,
a Delaware limited liability company,

SOL SUMMERLYN, LLC,
a North Carolina limited liability company,

ZEV SUMMERLYN, LLC,
a North Carolina limited liability company,

DAVID SUMMERLYN, LLC,
a North Carolina limited liability company,

LHNH SUMMERLYN TIC V LLC,
a Delaware limited liability company, and

GRANTEE

SUMMERLYN PLACE OWNER LLC,
a Delaware limited liability company, an
undivided 66.078% interest,

SUMMERLYN TIC 1 LLC,
a Delaware limited liability company, an
undivided 11.765% interest,

SUMMERLYN TIC 2 LLC,
a Delaware limited liability company, an
undivided 18.235% interest,

SUMMERLYN CRC LLC,
a Delaware limited liability company, an
undivided 1.471% interest, and

SUMMERLYN TIC 4 LLC,
a Delaware limited liability company, an
undivided 2.451% interest.

LHNH SUMMERLYN TIC VI LLC,
a Delaware limited liability company.

ADDRESS:

c/o Silver Point Group LLC
2105 W. County Line Road, Suite 3
Jackson, New Jersey 08527

ADDRESS:

11 Grace Avenue, Suite 201
Great Neck, NY 11021

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple all these certain lots or parcels of land situated in Alamance County, North Carolina and more particularly described as follows: **SEE EXHIBIT A**

The property hereinabove described was acquired by Grantor by instrument recorded in Book [4305], Page [28], of the Alamance County Register of Deeds.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor (but not others) except for the exceptions hereinafter stated.

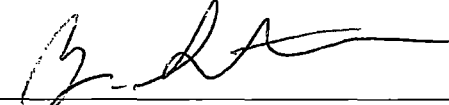
Title to property hereinabove described is subject to the following exceptions: SEE EXHIBIT B.

[SIGNATURES INCLUDED ON FOLLOWING PAGE]


IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

GRANTOR:

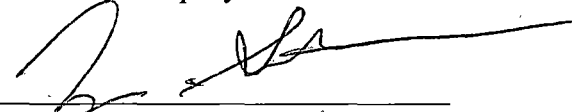
LHNH SUMMERLYN PLACE LLC, a Delaware limited liability company

By: 
Name: Yakov Stein
Title: Authorized Signatory


SOL SUMMERLYN, LLC, a North Carolina limited liability company

By: 
Name: Yakov Stein
Title: Authorized Signatory


ZEV SUMMERLYN, LLC, a North Carolina limited liability company

By: 
Name: Yakov Stein
Title: Authorized Signatory

DAVID SUMMERLYN, LLC, a North Carolina limited liability company

By: 
Name: Yakov Stein
Title: Authorized Signatory

② **LHNH SUMMERLYN TIC V LLC**, a Delaware limited liability company

By: 
Name: Yakov Stein
Title: Authorized Signatory

© RHNH SUMMERLYN TIC VI LLC, a Delaware limited liability company

By: 

Name: Yakov Stein

Title: Authorized Signatory

STATE OF NEW JERSEY
COUNTY OF OCEAN

I certify that the following persons personally appeared before me this day, each acknowledging to me that he or she signed the foregoing documents: Yakov Stein

Date: 2/9/22

[AFFIX SEAL BELOW]

Miriam D. Pollak
Notary Public

Print Name: Miriam D. Pollak

My commission expires: 8-31-26

Miriam D Pollak
NOTARY PUBLIC
STATE OF NEW JERSEY
MY COMMISSION EXPIRES AUGUST 31, 2026

EXHIBIT A

DESCRIPTION OF LAND

All that certain lot, piece or parcel of land, with the buildings and improvements thereon erected, situate, lying and being in the City of Burlington, County of Alamance, State of North Carolina.

Being all of Lot 2 as shown on plat recorded in Plat Book 57, Page 40, Alamance County Registry, and being described by metes and bounds as follows:

Beginning at an iron pipe set located in the southerly margin of Boone Station Drive (currently a 60' public right-of-way), said Beginning point being also a northerly corner of now or formerly George O. Deloache, as described in Deed Book 2084, Page 881 of the Alamance County Registry; thence from said Beginning point with the southerly margin of said Boone Station Drive the following three (3) courses and distances:

- (1) with the arc of a circular curve to the right having a radius of 986.00 feet, an arc distance of 511.59 feet, said arc being subtended by a chord bearing North 52 degrees 37 minutes 20 seconds East, a chord distance of 505.87 feet to an iron pipe set;
- (2) North 67 degrees 29 minutes 11 seconds East 977.60 feet to an iron pipe set; and
- (3) With the arc of a circular curve to the left having a radius of 1,543.32 feet, an arc distance of 27.82 feet, said arc being subtended by a chord bearing North 66 degrees 58 minutes 12 seconds East, a chord distance of 27.82 feet, to an iron pipe set located in the westerly boundary of the property owned (now or formerly) by Catfish Properties, LLC as described in Book 1896, Page 119, Alamance County Registry; thence leaving the southerly margin of Boone Station Drive and with the westerly boundary of the aforesaid Catfish Properties, LLC Property South 13 degrees 23 minutes 53 seconds East 271.47 feet to an existing iron pipe located in the northerly boundary of the property owned (now or formerly) by Huffman Mill Plaza Limited Partnership as shown on Plat Book 40, Page 38, Alamance County Registry; Thence with the northerly and westerly boundaries of the Huffman Mill Plaza Property the following three (3) courses and distances
 - (1) South 61 degrees 29 minutes 50 seconds West 1,046.37 feet to an existing iron pipe; and
 - (2) South 28 degrees 22 minutes 54 seconds East 520.99 feet to an existing iron pipe; and
 - (3) South 61 degrees 37 minutes 06 seconds West 10.69 feet to an existing iron pipe located in the southeasterly corner of Lot 1 as shown on plat recorded in Plat Book 57, Page 40, Alamance County Registry; thence with the northeasterly boundary of the said Lot 1 North 53 degrees 06 minutes 48 seconds West 890.57 feet to the point or place of Beginning, containing 12.14 acres or 528,818 square feet.

Together with all rights under that Grants of Easement and Agreement recorded in Book 1052, Page 792, in the Alamance County Registry, as modified by Modification of Grants of Easement and Agreement and Property Maintenance Agreement recorded in Book 1212, Page 139, Alamance County Registry.

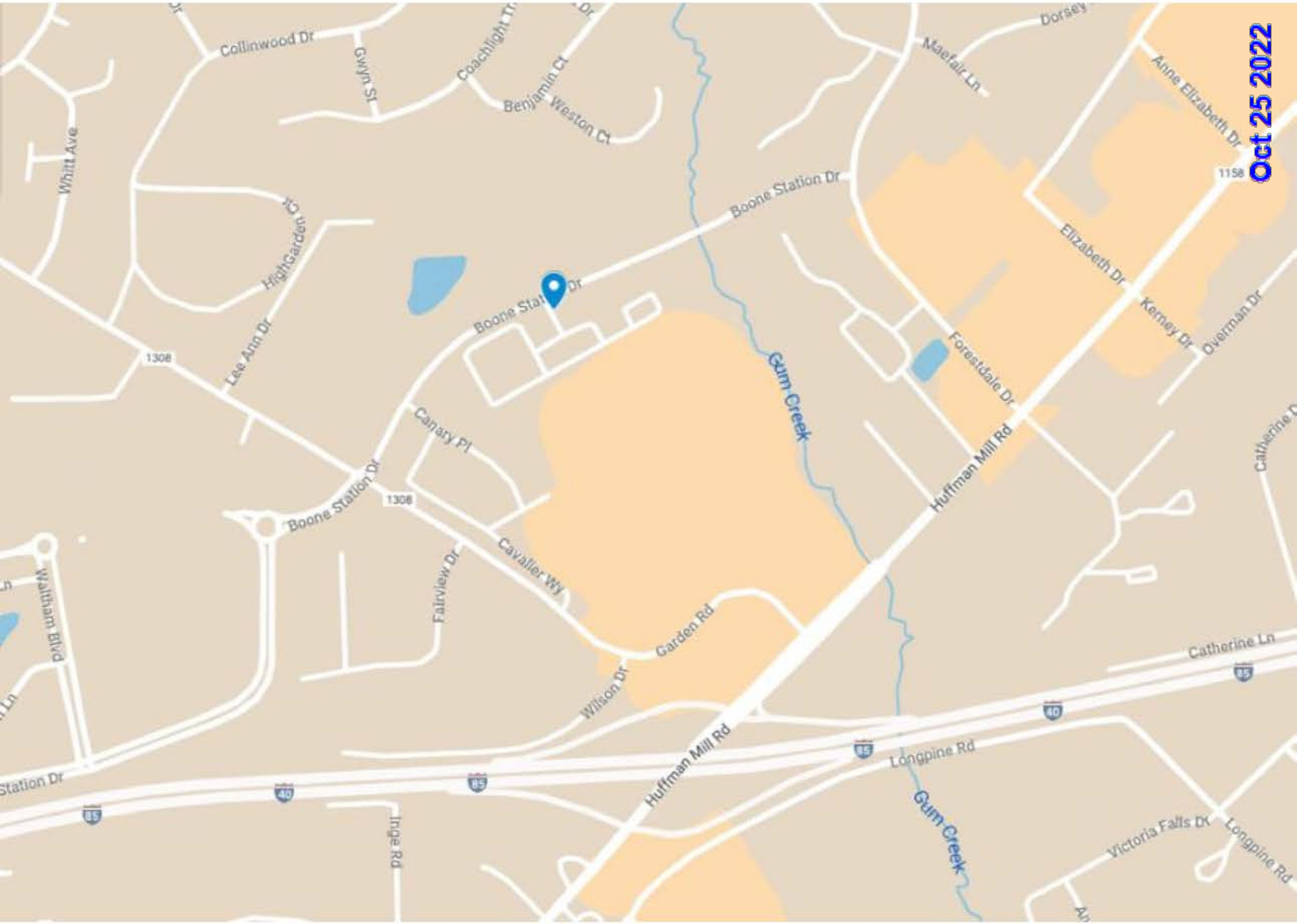
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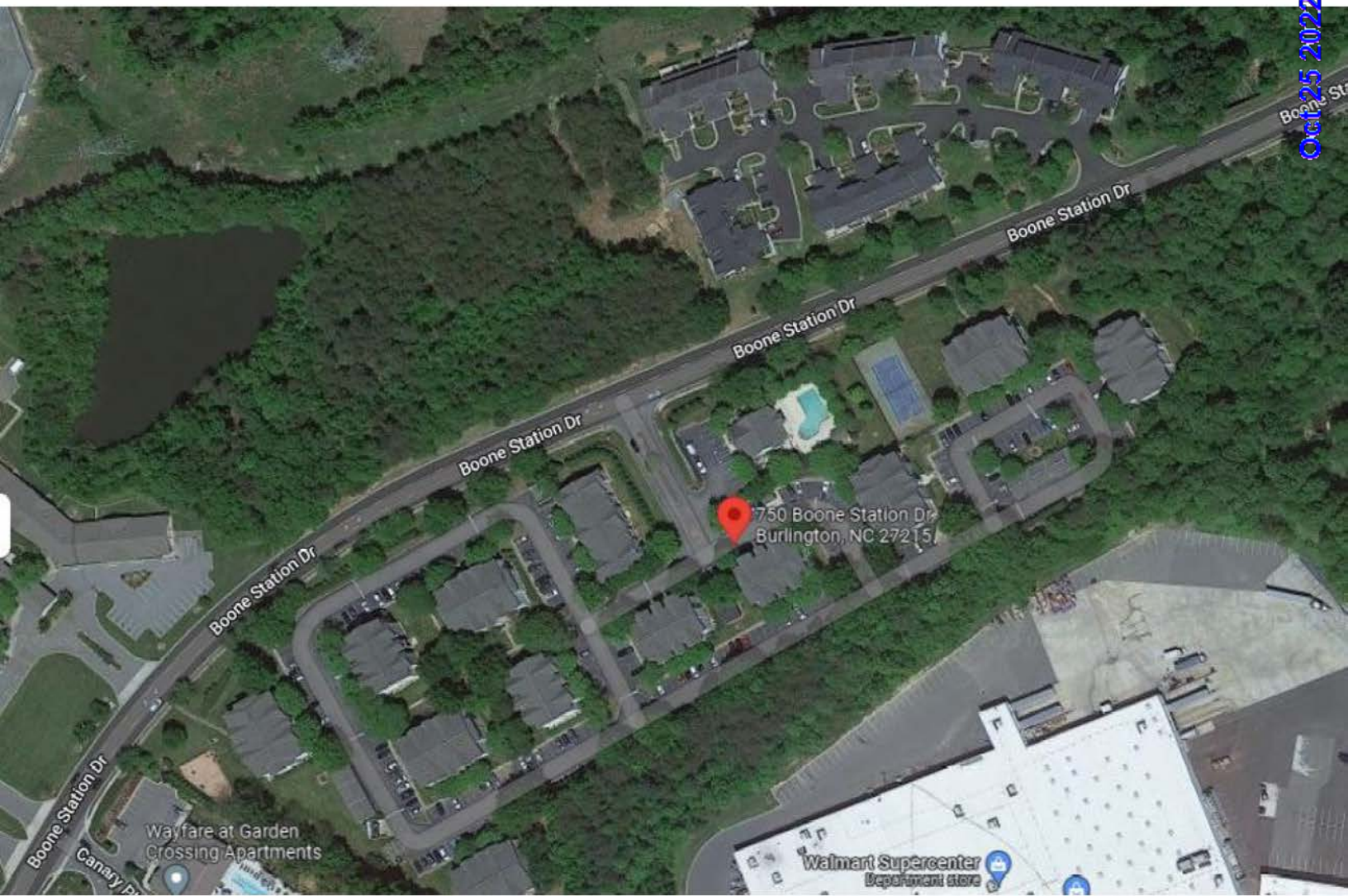
Oct 25 2022

EXHIBIT B**PERMITTED EXCEPTIONS**

1. Taxes for 2022 and subsequent years, and any additional taxes, which may result in rebilling or reassessment of the subject property.
2. Right of tenants in possession under unrecorded leases and terms and conditions of any existing unrecorded lease(s), and all rights of lessee(s) and any parties claiming through the lessee(s) under the lease(s).
3. Grants of Easement and Agreement made between Boone Station, LLC and Summerlyn Place Associates, LLC, dated January 9, 1997 and recorded on January 10, 1997 in Book 1052, Page 792; as affected by a Modification of Grants of Easement and Agreement and Property Maintenance Agreement dated September 3, 1998 and recorded on September 4, 1998 in Book 1212, Page 139; and as affected by a Partial Termination of Easement dated January 14, 2019 and recorded on January 23, 2019 in Book 3844, Page 977, aforesaid records.
4. Easement and Memorandum of Agreement made between BBR/Summerlyn, LLC and Time Warner Entertainment-Advance/New house Partnership d/b/a Time Warner Cable through its East Region, recorded on October 6, 2010 in Book 2950, Page 354, aforesaid records.
5. Nonexclusive Installation and Service Agreement made between DOF IV Summerlyn LLC and Time Warner Entertainment - Advance/Newhouse Partnership d/b/a Time Warner Cable through its East Region, recorded on September 7, 2017 in Book 3696, Page 163, aforesaid records.
6. Twenty (20') and Thirty (30') foot buffer zones, permanent slope easements, Thirty-five (35') by Fifty-five (55') foot permanent drainage easement, future retention pond area and easement, and Ten (10) by Seventy (70') foot sight easements as set forth on plat recorded in Plat Book 57, Page 40, aforesaid records.
7. Twenty (20') foot waterline easement and Thirty-five (35') foot setback line as set forth on plat recorded in Plat Book 64, Page, 49, aforesaid records.
8. Terms and provisions of an unrecorded Laundry Lease Agreement by and among CSC Service Works, Inc. and DOF IV REIT Holdings, LLC dated July 26, 2016, as disclosed by a Subordination, Non-Disturbance and Attornment Agreement by and among Jones Lang Lasalle Multifamily, LLC (Lender), LHNH Summerlyn Place LLC, SOL Summerlyn, LLC, ZEV Summerlyn, LLC, and David Summerlyn, LLC, as Tenants-in-Common (Landlord) and CSC Serviceworks, Inc. (Tenant), dated February 21, 2019 recorded on February 26, 2019 in Book 3853, Page 715 and re-recorded on March 5, 2019 in Book 3856 Page 82, aforesaid records.

9. Matters as shown on a survey dated November 4, 2021, by John A. Edwards, Jr., PLS No. 2776 of John A. Edwards & Company, designated as Project Summerlyn Place Apartments, 750 Boone Station Dr. Burlington, NC 27215, as follows:
- a) Headwall located in the northerly property corner extends 10.3' west out of Drainage Easement as reflected in Plat Book 57 Page 40.
 - b) Concrete pad, transformer and chain link fence extend beyond southeasterly property onto neighboring property
 - c) Block wall, detention pond and flared end section extend out of southwesterly property line
 - d) Rights of others both public and private in and to sanitary sewer lines, junction box, riser, detention pond, telephone pedestals, catch basins, transformer, gas valves, hydrants, inlets and all utilities located on subject premises
 - e) Apparent overlap between Plat Book 57, Page 40 & Plat Book 57, Page 130 (372 S.F.)





Water & Sewer Billing

City of Burlington Municipal Annex
237 West Maple Ave.
Burlington, NC 27215
P: (336) 222-5100
F: (336) 570-6136



The Customer Service division collects all revenues from taxes, water and sewer utility billing and solid waste fees, street assessments, and vacant lot and demolition fees, parking fees and parking tickets payments and prepares all required notices.

Quick Links

- [Water & Sewer Billing - Payment Methods](#)
- [Water Turn-On/Turn-Off](#)
- [Water/Sewer Taps/Connections](#)
- [Assessments](#)
- [Water & Sewer Rates](#)

WATER AND SEWER BILL PAYMENTS - PAYMENT METHODS

- **237 W. Maple Ave. Burlington Municipal Annex Building**
- Drive-Thru Service Available from 8:00 AM - 5:00 PM, Monday through Friday (excluding holidays)
- Drop Box: Available 24/7 on the building's side
- In-Person: Available from 8:00 AM - 5:00 PM, Monday through Friday (excluding holidays)
- Online bill payment: <https://selfservice.burlingtonnc.gov/mss>
- By Mail: Payments may be mailed to PO Box 1358, Burlington, NC 27216-1358
- By Recurring Bank Draft: Fill out and submit [Auto Draft Form](#) or login to <https://selfservice.burlingtonnc.gov/mss> and sign up there.

Should you have any questions concerning your bill, you may call 336-222-5100.

WATER TURN-ON/TURN OFF

- **Property owners:** Please call 336-222-5100 between the hours of 8am-5pm, Monday – Friday.
- **Renters:** Please call 336-222-5100 to establish service, a Customer Service Rep will assist with this request. Persons renting or leasing the property for which service is requested must pay a deposit of \$75.00 within the City limits or \$100.00 for properties

outside of the City limits, in order to initiate service. Deposits are to be paid in the Utility Billing Office at the City of Burlington Municipal Annex Building, 237 W. Maple Ave.

WATER/SEWER TAPS/CONNECTIONS

- For information concerning costs of water taps 1.5 inch or less in size or sewer taps 4 inches in size contact Utility Billing at 336-222-5100.
- For information on Water Taps larger than 1.5 inches or sewer taps larger than 4 inches contact Water & Sewer Pipe Maintenance at 336-222-5140.

ASSESSMENTS

Questions concerning water, sewer, demolition or vacant lot assessments should be directed to the City of Burlington Tax Department at 336-222-5126.

Water and Sewer Rates - July 2022 thru June 2023

Water Inside Corporate City Limits

1,000 gallons/month minimum	\$4.32 per 1,000
1,001 - 10,000 gallons	\$4.32 per 1,000
10,001 - 100,000 gallons	\$3.90 per 1,000
*100,001 - 1,000,000 gallons	\$3.45 per 1,000
All over 1,000,000 gallons	\$2.16 per 1,000

*Lowest rates offered to municipalities per contract

WATER OUTSIDE OF CORPORATE CITY LIMITS

Double the rate of water inside City limits (above).

Sewer Inside Corporate City Limits

1,000 gallons/month minimum	at \$5.31 per 1,000
1,001 - 10,000,000 gallons	at \$5.31 per 1,000
All over 10,000,000 gallons	at \$3.32 per 1,000

SEWER OUTSIDE CORPORATE CITY LIMITS

Double the rate of sewer rates for inside City limits (above).

MUNICIPAL SEWER Rate:

\$5.87 per 1,000 gallons

SEWER ONLY FLAT RATES

Inside Corporate City Limits: \$23.72

Outside Corporate City Limits: \$47.44

Water/Sewer Deposits

Inside Corporate City Limits: \$75.00

Outside Corporate City Limits: \$100.00

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Oct 25 2022

City Water Bill Assistance

Some Burlington Households who have experienced COVID-related financial difficulties are eligible to receive up to \$100/month for six consecutive months to help pay City of Burlington Water Bills.

The following qualifications apply:

- Residents must have experienced reduced income due either to COVID-related loss of work or to missing work due to COVID-related illness.
- Residents must meet low-moderate income qualifications as defined by HUD (see table below).

Household	1 person	2 people	3 people	4 people	5 people	6 people	7 people	8 people
Income	\$35,950	\$41,100	\$46,250	\$51,350	\$55,500	\$59,600	\$63,700	\$67,800

- Original due date on the bill that assistance is requested for is on or after March 10, 2020.
- Residents must not have received income assistance from other sources.

[Apply online here.](#)

[Download English Application here.](#)

[Download Spanish Application Here](#)

[Download Income Self-Certification here.](#)

CONTACT: Community Development Office, 336-222-5070, or by emailing Leigh Sims (lsims@burlingtonnc.gov)

ENERGY SOFTWARE AND SERVICES MASTER SERVICES AGREEMENT

YES Energy Management, Inc., a Colorado corporation with a principal office 9910 Federal Drive, Suite 100, Colorado Springs, CO 80921 ("YES"), and

TriPoint Properties LLC ("Client")
PO Box 306
Raleigh, NC 27602

enter into this agreement including any schedules, exhibits or other attachments (this "Agreement") effective as of the Effective Date [defined in section 1 (definitions), below].

RECITAL

YES provides certain software, utility billing services, and invoice processing services. Client desires to have YES provide certain software, utility billing services, and/or invoice processing services pursuant to this Agreement's terms, as applicable.

In consideration of their respective rights and obligations as set forth in this Agreement, the parties agree as follows:

AGREEMENT

1. Definitions

a. "Anniversary Date" means the date that is 365 days after the Initiation Date, and each anniversary thereafter of the date that is 365 days after the Initiation Date, during this Agreement's Term.

b. "Business Purposes" means for the purpose of viewing and analyzing real time energy usage data, interfacing with Client's existing energy management system, and/or detecting and diagnosing faults in the HVAC operations at a Client Property; as the case may be depending on the intended use of the specific Licensed Programs licensed by Client in pursuant to this Agreement.

c. "Client Data" means the metering data that is transmitted and/or entered into the database(s) associated with the Licensed Programs in connection with their Use of the Licensed Programs pursuant to this Agreement.

d. "Contractor" means a contractor who is neither a provider, nor an affiliate of a provider, of: (i) real property management and accounting software and associated services; (ii) utility billing software or services; (iii) energy systems automation software or services; or (iv) energy procurement services.

e. "Designated User" means a Client employee or Contractor designated by Client to access and use the Licensed Programs solely for the Business Purposes.

f. "Documentation" means the user manuals and documentation for the Licensed Programs.

g. "Effective Date" means the date of the last party signature on this Agreement.

h. "Fees" means the fees identified in Schedule A (Fee Schedule), and any other fees that may become due under this Agreement.

i. "Force Majeure Event" means any event beyond the reasonable control of the party affected by such event and which causes the affected party to delay or fail to perform under this Agreement, including without limitation fire, storm, weather, earthquake, explosion, casualty, strike, war, riot, civil disturbance, act of God, public health crisis, acts or omission

of any third party, any state or federal law, decree or ordinance, or any executive or judicial order.

j. "Initiation Date" means the first day of the month immediately following that date which is two weeks after the Effective Date.

k. "Licensed Programs" means the software programs set forth on Schedule A (Fee Schedule).

l. "Password" means the unique username and password assigned by Client to each Designated User as more fully described in section 6 (Client Responsibilities).

m. "Property" or "Properties" means the Client property or properties listed in Schedule B (Property List).

n. "Pulse Sites" means websites displaying the Licensed Programs.

o. "Services" means the utility billing services, invoice processing services, energy procurement, software implementation and configuration services, software application support services, YES Cloud Services, or other related services provided by YES to Client under this Agreement, as applicable.

p. "Undisputed Fees" means all Fees due from Client under this Agreement which Client does not reasonably and in good faith dispute - and provide notice of such dispute in accord with section 15(e) (Notices) - within 30 days of receipt of invoice.

q. "Use" means authorized access to the Licensed Programs hosted in the YES Cloud and use of the Licensed Programs and Documentation by Designated Users solely for the Business Purposes.

r. "YES Cloud" means the hardware, software, storage, load balancing units, switches and other hardware that make up the YES hosted cloud environment.

s. "YES Cloud Services" means installation, maintenance and service of the hardware and software comprising the YES Cloud.

2. License Grant; Restrictions.

a. **License.** Subject to the restrictions in section 2(b) (Restrictions), YES hereby grants to Client a non-exclusive, non-transferable (except as expressly provided in this Agreement), limited license for Client to: (i) access the YES Cloud and Use the Licensed Programs through its Designated Users solely for Client's Business Purposes, and (ii) access the Documentation on YES' client central website solely in connection with Client's Use of the Licensed Programs for Client's Business Purpose and subject to the terms of use then- presented on client central.

b. **Restrictions.** Client may only exercise the license in section 2(a) (License) through its Designated Users. Client may not rent, lease, sell, transfer (by sublicense, assignment or otherwise except as expressly provided by this Agreement), time share, modify, reproduce, copy, make derivative works from, distribute, publish, use to provide service bureau services, or publicly display the Licensed Programs. Client may only use the Licensed Programs for Business Purposes. Client may not reverse engineer, decompile or otherwise attempt to discover the source code for the Licensed Programs. Client may not permit any person or entity to breach the restrictions in this section 2(b) (Restrictions). Client may not copy or re-create the Licensed Programs, or its objects, without YES' prior express written consent. Client agrees that the Licensed Programs must remain at all times in the YES Cloud and may not be removed or copied to any other location at any time. Client acknowledges and agrees that Client may not perform scans or electronic testing of any kind on the YES Cloud, Licensed Programs, YES' corporate networks, or YES' corporate servers including, without limitation, vulnerability scanning or testing, penetration scanning or testing or any other type of scanning or testing of the YES Cloud, Licensed Programs, YES' corporate networks, or YES' corporate servers.

3. Services.

a. YES shall provide the software and/or Services set forth in Schedule A (Fee Schedule) in accordance with the terms set forth in this Agreement, including any exhibits, schedules, or attachments.

4. Term and Termination

a. **Term.** This Agreement will commence on the Effective Date and shall remain in full force until Client's 1st Anniversary Date (the "Initial Term") unless earlier terminated in accord with this Agreement. Upon expiration of the Initial Term, this Agreement shall automatically renew for successive 1-year terms (each a "Renewal Term") unless a party provides written notice of non-renewal at least 30 days prior to expiration of the then-current (Initial or Renewal) Term. The Initial Term and Renewal Term(s) shall be collectively referred to as the "Term."

b. **Intentionally Left Blank.**

c. **Termination for Cause.** Either party may terminate this Agreement upon written notice to the other party if the other party materially breaches this Agreement and fails to cure such breach within 7 days of written notice of a material breach, or if the breaching party cannot reasonably cure the material breach within 7 days, the breaching party fails to initiate cure within 7 days and fails to continuously and diligently work to cure the breach until the breach is cured. Termination pursuant to this section 4(c) (Termination for Cause) shall be effective upon delivery of written notice after expiration of the applicable cure period.

d. **Effect of Termination.**

(i) **Services Termination.** Upon the effective date of this Agreement's termination or expiration, (A) YES will cease providing the Services under this Agreement, and (B) Client shall pay any Undisputed Fees then due and payable to YES relating to the Services provided under this Agreement.

(ii) **License Termination.** Upon the effective date of this Agreement's termination or expiration: (A) the license for the Licensed Programs and Licensed Programs Documentation will terminate; (B) Client will cease Use of the YES Cloud, YES Cloud Services, Licensed Programs and Licensed Programs Documentation; (iii) Client's access to the YES Cloud and Licensed Programs will be disabled; and (iv) Client shall pay any Undisputed Fees to YES related to the Licensed Programs licensed under this Agreement.

(iii) **Early Termination of Monthly Fees.** If Client terminates this Agreement prior to expiration of the then-current Initial or Renewal Term other than pursuant to Section 4(c) (Termination for Cause) or terminates services to a Property less than twelve (12) months after the Property was added to the Agreement, Client agrees to pay YES an amount equal to 3 times the average monthly Fees payable to YES pursuant to this Agreement for the terminated Properties. The parties acknowledge and agree that this early termination fee liquidates YES' damages relative to a Client early termination and is a reasonable and good faith damages estimate relative to a Client early termination.

e. **Survival.** The parties' obligations under, and the provisions of, sections 4(d) (Effect of Termination), 5 (Fees), 6 (Confidentiality), 9 (Damage Limitations), 10 (Indemnification), 14 (Mediation), and 15 (General Provisions) shall survive this Agreement's termination or expiration.

5. Fees

a. **Fees.** Client agrees to pay YES the Fees in accordance with payment term more fully described in Schedule A (Fee Schedule).

b. **Failure to Pay.** Client's failure to timely pay any Undisputed Fee when due is a material breach subject to the terms of section 4(c) (Termination for Cause). Additionally, Undisputed Fees shall accrue interest from their due date until paid at the rate of 1.5% per month or the maximum rate allowed under applicable law whichever is less.

c. **Taxes.** The Fees are exclusive of any tariff, duty, or tax (exclusive of taxes based on YES' net income), however designated, levied, or based, applicable to this Agreement.

d. **Partial Fee Disputes.** If Client reasonably and in good faith disputes any Fees and provides notice in accord with section 15(e) (Notices) of such dispute, Client agrees that any undisputed portion of such Fees are Undisputed Fees and Client agrees to timely pay any such Undisputed Fees.

e. **Collections Costs.** Client will be responsible for any costs or expenses incurred by YES for collection of delinquent payments related to a tenant's utility bills that had not been paid, or were otherwise defaulted on, by a Client's tenant and where such costs were incurred as a result of an action that Client desired to have brought against its tenants for the collection of the delinquent payments.

f. **Rate Adjustments.** Although YES has no immediate plans to raise or change the fees set forth in the Fee Schedule, prior to any proposed fee increase YES will provide reasonable notice to Client.

6. Client Responsibilities.

a. **Designated Users.** Client agrees that its exercise of the license granted by this Agreement shall only be through its Designated Users. Client's license to access the YES Cloud and Use the Licensed Programs is limited as provided in section 2 (License Grant; Restrictions) and Schedule A (Fee Schedule).

b. **Password Assignment.** Each Designated User shall be designated by Client's POC and classified as one of the following user types: (i) viewing-rights only, (ii) standard user, or (iii) administrative user. Each Designated User, regardless of user classification, must be assigned a unique username and password by Client. Each Password may only be used from 1 computer at any given time. Client shall be responsible for maintaining Designated User Password security.

c. **Client Obligations with Respect to Designated Users.** Client shall (i) inform each Designated User of this Agreement's terms and restrictions, (ii) enforce the license terms and restrictions, and (iii) be liable for any violation of the provisions of this Agreement by Client's Designated Users. Client agrees to notify YES if Client becomes aware of any failure of a Designated User to adhere to the license terms and restrictions.

d. **Mechanical Systems Equipment.** Client is solely responsible for (i) notifying YES as soon as it becomes aware of any defects or problems which affect the normal operations of the mechanical systems equipment (e.g., pumps, chillers, piping, valves, etc.) ("**Mechanical Systems Equipment**") or Building Management System ("**BMS**") at the Property, and (ii) repairing any defects or problems that exist, or subsequently occur, in the Mechanical Systems Equipment or BMS. If YES discovers a defect or problem with the Mechanical Systems Equipment, then YES will notify Client and Client shall be responsible for promptly repairing such defect. Client expressly acknowledges and agrees that YES shall not be responsible for any costs or delays resulting from a defect or problem with the Mechanical Systems Equipment or BMS at the Property.

7. Confidentiality

a. **Confidential Information Definition.** "**Confidential Information**" means all technical and non-technical information including: (i) Client Data; (ii) patent, copyright, trade secret, and other proprietary information; (iii) inventions, know-how, processes, or algorithms; (iv) software programs, software source documents, object code, source code, database dictionaries, network diagrams, UML diagrams, Licensed Programs, YES Cloud, Documentation, schema, functions, user interface screens, SQL Server Integration Services, data warehouse schema, the reports generated by the Licensed Programs; (v) development, design details and specifications; (vi) a party's financial information; (vii) customer lists, business forecasts, sales and marketing plans and information; (viii) the prices offered or paid per this Agreement for YES' products and Services; (ix) SSAE18 audit reports and PCI DSS attestations of compliance and any information related to SSAE18 audit reports and/or PCI DSS attestations of compliance; (x) this Agreement's terms; and (xi) any other information disclosed by a party to this Agreement (the "**Disclosing Party**") to another party to this Agreement (the "**Receiving Party**"), or information to which a Receiving Party is exposed because of this Agreement that the Disclosing Party identifies as confidential at the time of disclosure or that, by its nature, reasonably should be regarded as confidential.

b. **Nondisclosure and Nonuse Obligations.** Each party (the "**Receiving Party**") agrees that it will not disseminate, distribute, expose, or in any way disclose any Confidential Information of the other party (the "**Disclosing Party**") to any third party. The Receiving Party may use the Disclosing Party's Confidential Information to the extent necessary to perform its obligations under this Agreement. The Receiving Party's employees and Contractors may use Confidential Information only for the specific business purpose for which it was made available and not for any other purpose. The Receiving Party's employees and Contractors may not use Confidential Information in any way that may compete with Disclosing Party. The Receiving Party may not disclose Confidential Information to its employees and Contractors for the purpose of enabling any such employees or Contractors to service, maintain, or modify the Licensed Programs. The Receiving Party agrees that it will treat all Confidential Information with the same degree of care as the Receiving Party accords its own Confidential Information, but in no event less than reasonable care. The Receiving Party agrees that it shall disclose Confidential Information only to those of its employees and Contractors who need to know such information, the Receiving Party shall be responsible for such employees' and Contractors' compliance with the terms of this Agreement, and such employees or Contractors shall be subject to confidentiality obligations that are substantially similar to those set forth in this Agreement. The Receiving Party shall immediately give notice to the Disclosing Party of any unauthorized use or disclosure of the Disclosing Party's Confidential Information. The Receiving Party agrees to reasonably assist the Disclosing Party in remedying any such unauthorized use or disclosure of Disclosing Party's Confidential Information.

c. **Exclusions from Nondisclosure and Nonuse Obligations.** The Receiving Party's obligations per section 7(b) (Nondisclosure and Nonuse Obligations) shall not apply to Confidential Information that the Receiving Party can document: (i) was (through no fault of the Receiving Party) in the public domain at or subsequent to the time the Disclosing Party disclosed the information to the Receiving Party; (ii) was rightfully in the Receiving Party's possession free of any confidentiality obligation at or subsequent to the time the Disclosing Party disclosed it to the Receiving Party; or (iii) was developed by the Receiving Party's employees or agents independent of, and without reference to, any information communicated to the Receiving Party by the Disclosing Party. A Confidential Information disclosure by the Receiving Party either: (A) in response to an enforceable order by a court or other governmental body; (B) as otherwise required by law; or (C) necessary to establish the rights of either party under this Agreement, shall not be a breach of this Agreement by the Receiving Party or a waiver of confidentiality for other purposes; provided, however, the Receiving Party shall provide prompt prior written notice of any such Confidential Information disclosure to the Disclosing Party (to the extent allowed by applicable law) to enable the Disclosing Party to seek a protective order or otherwise prevent such disclosure.

d. **Ownership and Return of Confidential Information and Other Materials.** The Disclosing Party's Confidential Information is and shall remain the Disclosing Party's property, and this Agreement does not grant or imply any license or other rights to the Disclosing Party's Confidential Information except as expressly set forth in this Agreement. Within 5 business days after the Disclosing Party's request, the Receiving Party will promptly either (at the Disclosing Party's election) destroy or deliver to the Disclosing Party all Confidential Information and materials furnished to the Receiving Party, and the Receiving Party agrees to provide a written officer's certification of the Receiving Party's compliance with the foregoing obligation.

e. **Third Party Information Disclosure.** The Disclosing Party shall not communicate any information to the Receiving Party in violation of the proprietary rights of any third party.

f. **Aggregate Utility Consumption Reports.** As part of its Services, YES may collect utility commodity consumption information with respect to Client's Properties. This data may be aggregated and used to generate statistical commodity consumption reports by geographic region or property type and shared with other parties. However, specific information identifying Client's properties, tenants, or unit-specific consumption information shall not be made available to 3rd parties.

8. Warranty.

a. Warranties.

(i) **Services Warranty.** YES shall perform the Services with the efficiency and knowledge which is possessed by those of ordinary skill, competency, and standing in YES' trade or business.

(ii) **Limited Software Warranty.** YES warrants that the Licensed Programs will perform substantially as specified in the Documentation. YES does not warrant that the Licensed Programs will meet Client's requirements and expectations.

b. **Remedy for Warranty Breach.** If YES breaches any of the warranties set forth in sections 8(a) (Warranties), YES agrees to use commercially reasonable efforts to modify the Licensed Programs or reperform the Services to conform to the applicable warranty. If such modification or reperformance of the Services is not commercially reasonable, then YES will notify Client and Client may terminate this Agreement. In the event Client terminates this Agreement per this section 8(b) (Remedy for Warranty Breach), YES will refund to Client, on a pro-rata basis, the prepaid Fees paid by Client to YES within the year prior to the notice date of the breach of warranty. THE FOREGOING REMEDY IS CLIENT'S SOLE REMEDY IN THE EVENT OF A BREACH OF THE WARRANTY SET FORTH IN SECTIONS 8(a) (Warranties).

c. **Warranty Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, AND TO THE FULLEST EXTENT ALLOWED UNDER APPLICABLE LAW, YES DISCLAIMS ALL EXPRESS, IMPLIED AND STATUTORY WARRANTIES WITH REGARD TO THE LICENSED PROGRAMS AND SERVICES PROVIDED UNDER THIS AGREEMENT INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

d. **Internet Performance Disclaimer.** YES does not and cannot control the flow of data via the internet. Such flow depends in large part on the performance of internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt the internet. YES will use commercially reasonable efforts to remedy and avoid such events, but cannot guarantee that such events will not occur. Accordingly, YES disclaims any liability resulting from or relating to such events.

9. Damage Limitations

a. **Damage Waiver.** REGARDLESS OF ANY OTHER PROVISION IN THIS AGREEMENT, AND TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, YES DISCLAIMS ALL OBLIGATIONS AND LIABILITIES FOR SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE AND CONSEQUENTIAL DAMAGES, ATTORNEYS' AND EXPERTS' FEES, AND COURT COSTS (EVEN IF YES HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES), ARISING FROM OR IN CONNECTION WITH THIS

AGREEMENT.

b. **Liability Limit.** IN ADDITION TO THE LIMITATIONS OTHERWISE SET FORTH IN THIS AGREEMENT, AND TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, CLIENT AGREES THAT IN THE EVENT OF ANY CLAIM OR CAUSE OF ACTION BY CLIENT ARISING OUT OF OR CONNECTED WITH THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR ANY OTHER THEORY OF LIABILITY, YES' MAXIMUM LIABILITY TO CLIENT, REGARDLESS OF THE AMOUNT OF LOSS CLIENT MAY HAVE SUFFERED, SHALL NOT EXCEED THE FEES PAID BY CLIENT TO YES PURSUANT TO THIS AGREEMENT WITHIN THE YEAR PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY. NOTWITHSTANDING THE FOREGOING, IN NO EVENT SHALL YES' LIABILITY WITH RESPECT TO BILLING ERRORS EXCEED THE AMOUNT OF FEES PAID BY CLIENT WITHIN THE 2 MONTHS PRIOR TO THE OCCURRENCE OF SUCH BILLING ERROR.

10. Indemnification.

a. **Indemnity.** YES agrees to defend, indemnify and hold Client harmless from and against any third party claims, actions or demands alleging that Client's Use of the Licensed Programs, YES Cloud, and Documentation in accordance with this Agreement's terms infringes on a third party's proprietary information, trademark, copyright, patent rights or intellectual property rights, or misappropriates a third party's trade secrets.

b. **Indemnity Conditions.** YES' defense and indemnification obligation per section 10(a) (Indemnity) is conditioned upon the following: (i) Client providing YES with prompt written notice of any claim for which indemnification is sought; (ii) YES having sole control of the defense and settlement of such claim, provided, however, that Client shall have the right to have any suit or proceeding monitored by counsel of Client's choice and at its expense; and (iii) Client's reasonable cooperation with YES in the defense and settlement of the claim.

c. **Injunction.** If the Licensed Programs become the subject of a patent, trademark, copyright, or trade secret misappropriation or infringement claim, and such claim results – or is reasonably likely to result – in an injunction against Client's continued Use of the Licensed Programs, YES will: (i) replace or modify the Licensed Programs to avoid the misappropriation/infringement claim; (ii) secure Client's right to continue Use of the Licensed Programs; or (iii) if neither (i) or (ii) is commercially practicable, either party may terminate this Agreement upon written notice to the other party.

11. Ownership.

a. **YES' Ownership.** Client agrees that, as between YES and Client, YES is and shall remain the sole and exclusive owner of all right, title and interest in and to the Licensed Programs, YES Cloud, Documentation, and to all intellectual property rights in each of the foregoing. The only rights Client obtains in the Licensed Programs, YES Cloud, and Documentation are the licenses expressly granted to Client in this Agreement. Client further acknowledges and agrees that YES is and shall remain the sole and exclusive owner of all right, title, and interest in and to the aggregated and anonymized data compiled in accordance with section 15(j) (Data Use).

b. **Client's Ownership.** YES agrees that, as between YES and Client, Client is and shall remain the sole and exclusive owner of all right, title and interest in and to Client Data.

12. User Content.

a. **Client's User Content.** Certain of the Licensed Programs which may be licensed and Used by Client provide the ability for Client to submit, email or otherwise publish on the websites displaying the Licensed Programs (the "Pulse Sites") certain information, text or materials ("User Content"). Client owns all right, title, and interest in and to any copyrighted materials that are contained in the User Content.

b. **Responsibility for User Content.** Client is solely responsible for all User Content and agrees that YES is not liable for any claims or causes of action related to, or arising out of, the User Content. YES reserves the right, in its sole reasonable discretion and without advance notice, to (i) terminate Client's access to the Pulse Sites, (ii) terminate Client's ability to post User Content, or (iii) refuse, delete, modify, edit or remove any User Content that is inappropriate or disruptive to the Pulse Sites.

c. **User Content License.** Client hereby grants YES, and its affiliated entities, a non-exclusive, royalty-free, fully paid, fully sub-licensable, worldwide license, under any and all of its copyright and other intellectual property rights related to the User Content, to reproduce, distribute, publicly display and perform, prepare derivative works of, incorporate into other works, and otherwise use the User Content.

d. **Client Representation.** Client represents and warrants that the User Content will not: (i) infringe the copyright, trademark, trade secret, or other intellectual property or proprietary right of others; (ii) contain material that is discriminatory, unlawful, tortious, obscene, fraudulent, defamatory, harmful, threatening, pornographic, indecent, vulgar, harassing, discourteous, hateful, abusive or racially, ethnically, religiously, sexually or otherwise offensive; (iii) violate the privacy, publicity, or other rights of third parties; (iv) be false or inaccurate; or (v) contain any viruses, Trojan horses, worms, time bombs, trapdoors, or other disabling devices or other harmful component intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information.

e. **Limited Liability for User Content.** Client expressly acknowledges and agrees that YES shall not be responsible, and assumes no liability, for any User Content. Client alone shall be responsible for any and all claims, losses, damages, and costs arising from, or related to, the User Content. As a provider of interactive services, YES only provides Client access to a forum on which the User Content may be displayed but YES is not liable for any statements, representations, or any User Content provided by Clients Designated Users, customers, tenants, applicants, or prospects on any Pulse Site.

13. Assignment

a. **Assignment Limitation.** Except for the exceptions specified in section 13(b) (Permitted Exceptions), neither party shall (either directly or indirectly) assign, sell, convey, pledge, or otherwise transfer this Agreement without first obtaining the other party's express written consent, which shall not be unreasonably withheld. Except for the permitted exceptions described in section 13(b) (Permitted Exceptions), below, any attempted assignment made without the other party's prior express written consent is void and a material breach of this Agreement.

b. **Permitted Exceptions.** Subject to the conditions precedent set forth in this section 13(b) (Permitted Exceptions), either party may assign this Agreement without the other party's prior consent and upon notice: (i) to a wholly owned subsidiary; or (ii) in connection with any merger, acquisition, or reorganization involving Client or YES (whichever is

applicable). Any assignment is subject to the following conditions: (A) the assignor, or the assignor's successor, continuing in the same type of business that the assignor was conducting at the time of this Agreement's execution; and (B) the assignor or the assignor's successor providing to the other party a written ratification and assumption of this Agreement concurrent with the assignment.

14. Mediation.

a. **Mediation Request; Condition Precedent.** In the event of a dispute between the parties to this Agreement arising out of or related to this Agreement which the parties are unable to resolve through direct negotiation, either party may serve upon the other at its principal place of business a request for mediation. Neither party may file an action against the other in any court, or initiate any other legal proceeding, unless and until the party seeking to do so has first requested a mediation hearing and made a good faith effort to complete the mediation process provided in this Agreement.

b. **Mediation Process.** The parties will select a neutral, independent mediator with experience in the relevant subject matter by the rules of the office of the Judicial Arbitration and Mediation Service (JAMS) closest to the mediation venue. The parties shall conduct the mediation not less than 10 or more than 20 days from the date the party requesting mediation gives notice of the request for mediation to the other party. The parties shall conduct the mediation in Santa Barbara, California. The parties shall equally bear the mediation costs.

c. **Mediation Confidentiality.** The parties shall maintain the mediation proceedings in confidence and shall not disclose to third persons the statements made in mediation by the other parties or the mediator. The mediation confidentiality provisions of California Evidence Code sections 1115 – 1128 shall apply to the mediation proceedings.

d. **Mediation Statements; Attendee Authority.** At least 5 days before the date of the mediation, each party shall provide the mediator and the other party with a statement of its position and copies of supporting documents. Each party shall send to the mediation a person who has authority to bind the party.

e. **Non-Binding.** If a party participates in good faith in a mediation and is dissatisfied with the outcome, that party may then invoke all legal rights and remedies available to the party at law or in equity.

15. General Provisions

a. **Independent Contractor Status.** The parties agree that they are independent contractors and nothing in this Agreement is intended to make the parties partners, agents, joint ventures, or any other form of joint enterprise, or to make the employees, agents, or representatives of one of the parties into employees, agents, or representatives of the other party. No party to this Agreement shall have any express or implied right or authority to assume or create any obligations on behalf of the other party or to bind the other party to any contract, agreement, or undertaking with any third party.

b. **Governing Law.** This Agreement shall be governed and determined by the laws of the United States and the State of California as such laws are applied to agreements made and performed entirely within the State of California.

c. **Venue.** Any action or proceeding related to or arising out of this Agreement shall be resolved only in a court of competent jurisdiction in the City of Santa Barbara, State of California (or the court of competent jurisdiction closest to the City

of Santa Barbara, CA if no court of competent jurisdiction resides in the City of Santa Barbara, CA), and the parties consent to the personal jurisdiction of such courts and expressly waive any right they may otherwise have to cause any such action or proceeding to be brought or tried elsewhere.

d. **Binding Effect.** This Agreement is binding on and inures to the benefit of the parties and their permitted assigns, successors, and legal representatives.

e. **Notices.**

(i) The parties shall deliver any notice required by this Agreement by personal delivery, certified U.S. Mail return receipt requested, or established, reputable expedited delivery carrier providing proof of delivery service, and will be deemed given upon confirmed delivery to (or rejection by) the party to whom it is intended at its record address. The record addresses of the parties are set forth below.

(ii) If to Client:

Attn: Maxwell Platoff
TRIPOINT PROPERTIES LLC
PO Box 306
Raleigh, NC 27602

(iii) If to YES:

Attn: Legal Department
YES ENERGY MANAGEMENT, INC.
430 S. Fairview Ave.
Goleta, CA 93117

(iv) Either party may change its record address by giving written notice of such change to the other party.

f. **Waiver.** The waiver of a party's breach of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach.

g. **Severability.** If a court or other body of competent jurisdiction determines that any provision of this Agreement is illegal or unenforceable, that provision will be severed from this Agreement, and the remaining provisions will remain enforceable.

h. **Headings.** This Agreement's section headings and captions are inserted for convenience only and are not intended to form a material part of this Agreement.

i. **Entire Agreement.** This Agreement, and each schedule or attachment executed in connection with this Agreement, collectively constitute the final, complete, and exclusive statement of the agreement between the parties pertaining to this Agreement's subject matter and supersedes all prior and contemporaneous understandings or agreements of the parties (including any prior agreement with any YES affiliate or subsidiary). No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty except those inducements, representations and warranties expressly set forth in this Agreement.

j. **Data Use.** YES may aggregate, compile, and use Client Data and User Content in order to improve, develop or enhance the Licensed Programs and/or other products or services offered, or to be offered, by YES; provided, however, that no Client Data is identifiable as originating from, or can be traced back to, Client, or a Client Property or tenant, in such aggregated form.

k. **Representations and Warranties; Covenants and Agreements; Indemnity.** To the extent Client has engaged,

or at a later date engages, YES to provide utility billing services as part of the Services provided under this Agreement, then Client:

(i) represents and warrants that it has provided all necessary disclosures and/or notices, and obtained all necessary consents and/or agreements, from tenants as required by all applicable laws, regulations, ordinances and orders relating to: (i) the allocation, assessment, and collection of the utility billing charges and fees contemplated by this Agreement (including, without limitation, any tenant-paid Fees and Vacant Cost Recovery charges and fees); (ii) the use of paperless electronic tenant utility invoices (to the extent Client requests such service); and (iii) the assessment of penalties or charges for late or partial payment;

(ii) covenants and agrees that it is Client's sole responsibility to adhere to all applicable laws, regulations, ordinances and orders relating to: (A) landlord utility billing; (B) rent control; (C) record retention with respect to landlord utility billing; (D) entry of a dwelling; and (E) interruption or disconnection of utility services to tenant units; and

(iii) agrees to defend, indemnify and hold YES, and YES' employees, directors, and affiliated entities, harmless from and against any third party claims arising from or related to a breach of any of the representations, warranties or obligations set forth in section 15(k)(i) or the covenants and agreements in section 15(k)(ii).

l. **Non-Solicit/Non-Hire/Promotion.** The parties agree not to solicit (other than a general solicitation to the public) the employment of, engage as an independent contractor, or hire, any employee of the other party while such person is an employee of the other party and until such person has not been an employee of the other party for 6 months.

m. **Modification.** The parties may only modify or amend this Agreement by a writing signed by both parties.

n. **Force Majeure.** Neither party shall be liable under this Agreement for failure or delay in performance caused by a Force Majeure Event. If a Force Majeure Event occurs, the party affected shall use commercially reasonable efforts to resume the performance excused by the Force Majeure Event. If the Force Majeure Event causes a failure or delay in performance for greater than thirty (30) days, then either party may terminate this Agreement for its convenience upon written notice to the other party.

o. **Signature; Counterparts.** This Agreement is not binding on the parties until both parties have signed it and have received a copy signed by the other party. However, both signatures need not appear on the same copy of this Agreement, so long as both signed copies have identical contents. The parties may transmit signatures on this Agreement by electronic transmission, which shall be binding upon the parties.

TRIPOINT PROPERTIES LLC ("Client")

By: 

Date: 2/1/22

Print Name: Maxwell Platoff

Title: Partner, TriPoint Properties

YES ENERGY MANAGEMENT, INC. ("YES")

By: _____

Date: _____

Print Name: _____

Title: _____

Rev. 082019

OFFICIAL COPY

Oct 25 2022

SCHEDULE A

Fee Schedule

YES Pin #: 100105468
YES Order #: 309961

Monthly (Recurring) Fees				
Description	UOM	Count	\$/UOM	Total Price
Billing Service Fee	bill sent	TBD	\$3.75	billed in arrears
Utility Billing and Utility Invoice Processing				included
Energy Star - Portfolio Manager Uploads				included
UIP - Bill Pay				included
UIP - Vacant Cost Recovery	occurrence	TBD		billed in arrears
Total Monthly Fee				TBD

One-Time Fees				
Description	UOM	Count	\$/UOM	Total Price
Energy Star - Portfolio Manager Setup	Property	TBD		billed in arrears
Total One-Time Fee				TBD

Additional Terms

1. PAYMENT TERMS (excluding applicable taxes):

- a) **Monthly Fees:** All Monthly Fees will be billed monthly in arrears and are due 30 days from the date the invoice is sent to Client.
- b) **One-Time Fees:** Due 30 days from the date the invoice is sent to Client.
- c) **Minimum Fee** is the base prices outlined below.
 - (i) If Client's Fees outlined above do not exceed the base prices indicated for the corresponding services below, YES shall charge to Client the Minimum Fee.

Base Prices	Services
	Utility Billing and Utility Invoice Processing

- (ii) If a Property using both Utility Billing and Utility Invoice Processing services activates Utility Invoice Processing services without the Utility Billing service, a \$125.00/Property/month minimum charge shall apply. This minimum shall not apply to any Property priced above on a per account/meter processed basis.

2. ADDITIONAL TERMS:

- a) Any increase in the cost of postage will be automatically applied to the Fees.
- b) YES will attempt to pass through its service Fees to tenants where allowed by law. However, Client acknowledges and accepts that Client may have to pay part or all of these Fees.
- c) Client agrees to the additional terms set forth in the following schedules:
 - B – Property List
 - C – Utility Billing and Submetering Service Level Agreement
 - D – Utility Invoice Processing (UIP) Service Level Agreement
 - Exhibit 1 – Change of Ownership (COO) Service Procedures
 - E – Energy Procurement Service Level Agreement
- d) **Yardi Bill-Pay Fees:** If Yardi Systems Inc. ("Yardi") and Client have previously agreed on Fees for Bill Pay via Client's Voyager agreement, the Voyager rates shall apply to this Agreement. If Yardi and Client have not previously agreed on Fees for Bill Pay, the following rates will apply:
 - (i) \$1.00 per ACH transaction
 - (ii) \$1.00 per Check written via Check Bill-Pay Payments (subject to increase based on rate increases from the U.S. Postal Service)
- e) **YES Integration:** Energy Solutions may be integrated with a Voyager program in the event either (a) Client has contracted with Yardi Systems, Inc. ("Yardi"), the holding company of YES, for Yardi's Voyager software or (b) Client's property management company has contracted with Yardi for Yardi's Voyager software to be utilized by Client with respect to the YES Properties per this Agreement.
 - (i) If the client identified in the Voyager agreement (the "**Voyager Client**") requests Energy Solutions be integrated with the Voyager program, Energy Solutions functionality (which includes 20 Energy Solutions DUs [including

commercial DUs if applicable], 1 FTP User, 1 FTP Site, ETL for 2 foreign databases, and the PAYscan module for the purpose of processing utility invoices) shall be licensed at no additional charge as part of the Licensed Programs as defined under that Voyager agreement.

- f) To the extent that Client requests to implement a billing program with a flat fee charge for billed commodities, the parties acknowledge that Client, in its sole discretion, has determined the amount of this charge, and YES makes no representation that this charge is permissible under applicable state or local law. Client agrees to indemnify, defend, and hold YES harmless from and against any and all claims, demands, losses, judgments, costs, expenses (including attorneys' fees), and liabilities arising from this charge.

SCHEDULE B

Property List

#	Property Name	Unit	Address	City	State	Zip	Licenses/ Services Requested
1	Summerlyn Place	140	750 Boone Station Drive	Burlington	NC	27215	UB+UIP, VCR, ES, BP
2	Crescent Oaks	80	350 W Crescent Square Drive	Graham	NC	27253	UB+UIP, VCR, ES, BP
Total Units		220					

Licenses/Services Key	
UB+UIP	Utility Billing and Utility Invoice Processing
VCR	Vacant Cost Recovery
ES	Energy Star
BP	Utility Invoice Processing Bill Pay

SCHEDULE C

Utility Billing and Submetering Service Level Agreement

The below shall apply only to those Clients who purchase Utility Billing services.

YES shall provide the following services to Client:

Article I: Usage Allocation and Tenant Charges

1. YES agrees to allocate utility usage and create tenant charges monthly.
2. YES shall prepare appropriate charges for each tenant based on utility usage information, the tenant move-in/move-out information, and the master meter invoices.
3. Tenant utility bills and late notices shall be delivered via electronic mail or otherwise made available online. When needed or required by certain jurisdictions, tenant utility bills and late notices may be printed on 8-1/2 by 11 paper and mailed in a No. 10 commercial envelope.

Article II: Tenant Activity and Utility Company Invoices

1. YES will rely on property and unit occupancy information provided by Client.
2. Client shall provide YES with a copy of master meter invoices.

Article III: Sub-meter Reading and Estimated Readings

1. Readings shall be taken (as needed for billing purposes) from remotely read metering systems.
2. Estimated sub-meter reads shall be used in compliance with applicable laws and regulations.
3. If a unit is occupied and the activated sub-meter shows no movement, the tenant will receive an estimated bill for utility usage based upon YES' examination of comparable month's utility usage (where allowed by applicable law).
4. Client shall notify YES when a unit becomes vacant. Vacant units shall not be assessed a Billing Service Fee.

Article IV: Client Service Standards

1. YES shall maintain a local, toll-free or collect, telephone access line which shall be available Monday through Friday, excluding holidays; between the hours of 7:00AM and 5:00PM U.S. Mountain time.
2. Trained YES representatives shall be available to respond to telephone inquiries from Client and tenants.

Article V: Sub-meter Usage and Telecommunication Service

1. Sub-meter readings shall be taken (as needed for billing purposes) from remotely read metering systems.
2. Client agrees to provide one or more dedicated, measured, business telephone lines, or ethernet (preferred) for YES' remote data collection. In such cases where internet is not available, or VOIP phone lines are used, client will be required to utilize a cellular card at an additional monthly expense. If YES supplies and maintains the POTS line used for the collector, YES shall charge a monthly service fee for the upkeep and maintenance of the phone line.
3. Client agrees that: (i) if YES is not managing the aforementioned telephone line, it shall not be used for any other purpose, and shall be installed near the data collection equipment; (ii) the telephone line(s) installation and monthly use charges are Client's obligation; (iii) if the aforementioned telephone line(s) malfunction, repair is Client's responsibility and cost; and (iv) until the line(s) are repaired, Client acknowledges that YES may estimate usage.

Article VI: Maintenance Visit Costs

1. If Client is not enrolled in YES' maintenance plan, YES' will perform maintenance on an on-call basis and charge its current hourly rate for meter maintenance services, plus materials, plus all reasonable expenses associated with on-site visits including but not limited to, shipping/freight, administrative costs, travel to and from the site, lodging, meals, etc. in accord with YES' travel policy [egs., coach airfare with fewest stops available, 3-star or comparable lodging, mid-size rental car (if necessary), daily per diem.
2. If Client is enrolled in YES' maintenance plan, YES will provide quarterly service visits at no additional charge (travel, expenses, equipment, material, and labor). However, YES' maintenance plan does not include:
 - a. Client requests for multiple maintenance visits during the same quarter;
 - b. sub-meter accuracy testing (see Sub-Metering Accuracy Testing terms below);
 - c. the repair or service of any components besides the sub-meter, sub-meter wiring, repeater, data collection device, data collection device wiring, and data collection device configuration;
 - d. high or low consumption/usage as these issues are normally not related to the meter but due to tenant activity;
 - e. on-site data collector troubleshooting;
 - f. data collector relocation; or

- g. leaks at the sub-meter that are not of the body of the sub-meter (i.e., leaking from the couplings or pipes).

Any repair not covered under YES' maintenance plan shall be invoiced at YES' then-current rate, at a minimum of one hour. Costs on the invoice and proposals will appear as materials, labor & logistics, specific fees if applicable (i.e., cancellation fee).

3. Client is responsible (whether enrolled in YES' maintenance plan or not) for any equipment upgrade expenses related to obsolete equipment that is no longer being manufactured or supported by the manufacturer; or due to general technology changes used to support the equipment such as servers, or technology platforms that use cellular or telephone lines as a means of communication.
4. Client is responsible (whether enrolled in YES' maintenance plan or not) for charges associated with local testing and sealing of sub-meters (e.g., California Weights and Measures testing fees).
5. If Client is not enrolled in YES' maintenance plan, all fees associated with YES' on-call service visit to the Property will be outlined in a proposal. No work will be performed until Client has accepted and executed the proposal. Additional service outside of the scope of the proposal will require a new proposal to be accepted and executed. Client is not obligated to accept YES' proposal and may schedule maintenance work with another provider; however, YES is not responsible for any billing errors due to work by others.

Article VII: Maintenance Visit Scheduling

1. If Client is not enrolled in YES' maintenance plan, metered data will be reviewed and analyzed upon request. If a service issue is identified, a proposal will be created and sent to Client for review. Once the proposal is accepted and executed, a service date will be scheduled.
2. If Client is enrolled in YES' maintenance plan, YES will automatically review and analyze the health of the meters on a quarterly basis to identify possible service issues. If a service issue is identified, quarterly maintenance will be scheduled. If no services issues are identified during a given quarter, YES may postpone a service visit until the following quarter. YES may also postpone a service visit until the following quarter if (i) less than four percent (4%) of the sub-meters are reporting errors or have pending resident inspection or reconnection requests, or (ii) Client waives this requirement.

Article VIII: Maintenance Visit Confirmation

1. Once a service visit has been scheduled, YES will transmit to Client a meter maintenance confirmation request (a "Confirmation Request"). In order to confirm the maintenance service visit, a signed Confirmation Request must be faxed or emailed to YES within 72 hours of receipt.
2. If Client is not enrolled in YES' maintenance plan and Client fails to return a signed Confirmation Request within 72 hours of receipt, YES will make two additional attempts to contact Client to schedule service. If confirmation is not received after these two attempts, Client's on-call service will be postponed until such time as Client communicates to YES a desire to reschedule the service visit.
3. If Client is enrolled in YES' maintenance plan and Client fails to return a signed Confirmation Request within 72 hours of receipt, a second Confirmation Request will be sent. If confirmation is not received within 72 hours after sending the second notice, the Client's maintenance service will be rescheduled for the following quarter.

Article IX: Maintenance Visit Cancellation

1. If Client is not enrolled in YES' maintenance plan and Client needs to cancel a confirmed on-call service, YES must be notified at least 72 hours prior to the scheduled visit. If notice is not given to YES within 72 hours of the scheduled visit, Client may be invoiced a \$175 Cancellation Fee. On-call service will then be scheduled for a later date and time.
2. If Client is enrolled in YES' maintenance plan and Client needs to cancel a confirmed quarterly service visit, YES must be notified at least 72 hours prior to the scheduled visit. If notice is not given to YES within 72 hours of the scheduled visit, the Client's maintenance service will be rescheduled for the following quarter and may be invoiced a \$175 cancellation fee.

Article X: Maintenance Visit Preparation

1. YES will contact Client via email, telephone, or fax at least 72 hours prior to the date of the confirmed, scheduled service visit. The purpose of this courtesy contact will be to ensure that Client is prepared for YES' scheduled visit and finalize any other details for the visit.
2. It is Client's sole responsibility to adhere to all applicable local and/or state laws/ordinances regarding entry into and/or interruption of utility services to units.
3. YES strongly recommends that Client assign an employee to escort YES personnel while on the property's premises in order to minimize liability. However, if Client chooses not to, or is unable to have an employee escort YES personnel while on the property's premises, Client releases YES from liability for all claims arising from YES' presence being an alleged violation of local and/or state laws/ordinances regarding entry into a unit.
4. On the appointment date listed on the Confirmation Request, Client must pre-arrange access for YES technician(s) to enter the units listed on the Confirmation Request as follows:
 - a. Provide notice pursuant to any applicable local and/or state laws/ordinances regarding entry into and/or interruption of utility services to occupant units.

- b. Provide keys or an employee who can provide access to all units listed in the Confirmation Request.
 - c. Secure all pets and ensure that areas surrounding the unit's meter are cleared.
 - d. Deactivate any alarms and open any interior locks.
5. In the event a YES technician arrives at Client's property for a confirmed, scheduled maintenance visit and Client fails to pre-arrange access as described above, Client will be subject to a no access fee for every unit service was scheduled for. If Client is enrolled in YES' maintenance plan, YES shall thereafter reschedule the service visit the following quarter.

Article XI: Sub-Meter Accuracy Testing

1. Sub-Meter accuracy testing (high/low usage) will be performed at YES' current hourly rate (a minimum of one hour) for meter maintenance services, plus materials, plus all reasonable expenses associated with on-site visits. Testing for the purposes of meter certification may incur higher fees.
2. If Client is enrolled in YES' maintenance plan the following terms apply:
 - a. Client requested accuracy testing is not included in YES' maintenance plan and will be billed at YES' hourly rate. Testing for the purposes of meter certification may result in additional fees.
 - b. If Client requests meter testing services during a regularly scheduled quarterly visit hourly charges for the meter testing will apply, however materials charges, and reasonable expenses charges are not applicable.
 - c. If the sub-meter accuracy test indicates a meter defect, there will be no charge for the test.

Article XII: Hours of Availability

1. Working hours are defined as Monday through Friday between the hours of 8:00 AM and 5:00 PM, local time excluding holidays.
2. In the event Client requires YES to perform service outside of these times, overtime rates (1.5 times the normal rate) shall apply.

Article XIII: Meter Maintenance Provisions

1. Payment of a Meter Maintenance Fee [which, if applicable, will be set forth in Schedule A (Fee Schedule) with respect to each Property for which the Meter Maintenance Fee applies] will accommodate and pay for all costs incurred by YES for the services delivered under Article II (Service Requests) of this document, including labor, time, materials, and the travel costs incurred traveling to and from the sub-meter site.
2. Client understands and agrees that the Meter Maintenance Fee is subject to increase annually from the Effective Date of the Agreement. Prior to any proposed fee increase YES will provide reasonable notice to Client.
3. The Meter Maintenance Fee covers the repair of the following components currently installed at the Properties: sub-meter, sub-meter wiring, repeater, data collection device, data collection device wiring, and data collection device configuration. Newly installed equipment, not installed by YES, shall not be eligible for repair services without the express written consent from YES.
4. The Meter Maintenance provisions will remain in effect (so long as Client continues to pay the Meter Maintenance Fee) until the expiration of the expected life of the sub-meter, as defined by the manufacturer of the sub-metering device and its components, and so long as said manufacturer continues supporting the equipment with replacement parts, but in no case shall exceed 15 years from the date of manufacture.
5. The Meter Maintenance Fee will not cover the repair of sub-meters damaged by vandalism, third party tampering or Force Majeure Events.
6. The Meter Maintenance Fee is only intended to cover maintenance services for sub-meter systems which are in good working condition as of the execution of the Agreement. Client is solely responsible for costs related to initial repairs needed to bring the sub-meter system within an acceptable operational status and maintenance services shall only be offered if the sub-meter system(s) are in good working condition and report no more than a reasonable error or malfunction rate. Client shall be notified of any Properties with a sub-meter system not eligible for maintenance services within the first 6 months of service.
7. The sub-meter system associated automated meter read system, and the data collector are the sole property of Client. Except for services covered by YES' maintenance plan, Client is responsible for the upkeep, safeguarding, and all expenses associated with the system.

SCHEDULE D

Utility Invoice Processing (UIP) Service Level Agreement

The below shall apply only to those Clients who purchase Utility Invoice Processing services.

YES will provide the Utility Invoice Processing service as described below:

Article I: Invoice Processing

1. YES agrees to receive and process the following types of Invoices from third parties (the "**Vendors**"): (a) utility type invoices; and (b) reoccurring payable invoices that are subject to be charged back to the tenants (the "**Invoices**").
2. Client agrees to notify Vendors of all necessary changes to Client's account with such Vendor and to execute any and all forms and authorizations as may be required to authorize YES to receive Invoices directly from all relevant Vendors. YES agrees to aid Client in making changes with the understanding that Client is ultimately responsible for effectuating any needed changes.
3. Client authorizes YES to establish one or more post office boxes with the United States Postal Service at a location designated by YES (the "**Billboxes**") for the purposes of receiving Invoices. YES agrees to bear the out of pocket costs for establishing and maintaining the Bill boxes. YES will arrange for the pickup and delivery of all Invoices from the Billboxes to its processing site on a daily basis (Monday through Friday, excluding holidays).
4. YES will capture Invoice information, scan applicable Invoices, and provide online access within 3 business days after actual receipt of the Invoice. YES will not be responsible for processing Invoices from a specific Vendor until necessary Client account changes are completed and YES has received the first Invoice from the Vendor.
5. At Client's election, YES will either (a) return original Invoices to Client or (b) destroy original Invoices. Client may elect only one of the aforementioned options for each Bill box, but not a combination of both options for any single Billbox. Client may change its original election as of the beginning of any calendar month, with at least 30 days prior written notice. Absent contrary instructions from Client, YES will periodically destroy original Invoices that are at least 4 weeks old at no additional cost. If Client elects to have original Invoices returned, YES will return the original Invoices to Client periodically pursuant to arrangements agreed with Client in writing. Client will be responsible for the out of pocket postage cost of such arrangements and will bear the cost of any personnel time or materials used in special sorting or packaging of Invoices.

Article II: Payable Processing

1. YES will audit Invoices received from Vendors to verify the validity of current charges by checking for a series of exceptions and reviewing for potential billing errors. YES will review the appropriateness of rates and tariffs applied by Vendors to Invoices at least once every calendar quarter. Client's direction is required to define acceptable thresholds. Any custom exceptions desired by Client must be properly defined and agreed to by YES in writing. Any Invoice found to have an exception will be investigated by YES.
2. Invoices will be automatically posted as a payable to a Client's designated general expense account for each Vendor with a post-date matching the calendar date the Invoice is processed, unless otherwise agreed to in writing by YES.
3. YES will post payables using a standard naming convention which reflects the Invoice number set by the Vendor. If the Invoice number is not available, then the following format may be used: Account # + mm/dd/yyyy (invoice date). Any additional annotations for payables will be entered in a standard format, for example: Utility Type + Meter Account # + Service Dates.
4. YES will audit and create a payable batch which will be available for review and payment approval within 3 business days after receipt of Invoice. YES will not be responsible for any Vendor late fees incurred due to delayed Invoice mail delivery, Client's failure to remit timely payment to Vendor, or any other reason beyond YES' control.
5. Client agrees to conduct a timely review of all electronic data batch transmissions and identify any errors. Client further agrees to notify YES of any errors as soon as possible, but in all events no later than 60 days after the processing date.
6. Client acknowledges that it has read, understood and agrees: (i) to be bound by the payment processing terms and conditions set forth at https://clientcentral.yardi.com/core_custompage/payment-processing-terms and incorporated herein by this reference, and as such payment processing terms may be amended from time to time (the "**Payment Processing Terms**"), and (ii) that the Vendor payment processing services are provided by Yardi.

Article III: Vacant Cost Recovery ("VCR")

1. YES will identify any Invoice charges billed to Client and associated with tenant utility usage in any unit reported as vacant to a Vendor ("**Vacant Invoice Charges**").
2. YES will include Vacant Invoice Charges in the next regularly scheduled tenant utility bill in addition to any VCR Fee as set forth in Schedule A. Vacant Invoice Charges and VCR Fee will be processed as a charge on the tenant ledger. Client will be responsible for any Fees, as set forth in Schedule A, which are not paid by tenant. No VCR Fee shall be charged if such Fee does not exceed the minimum threshold set by Client and agreed to in writing by YES. If a VCR Fee is assessed, a corresponding annotation for payables will be entered in a standard format, for example: Utility Type + Unit # + Meter Account # + Service Dates.
3. Vacant Invoice Charges identified after tenant moves out will only be processed if Client has not performed deposit accounting on tenant ledger.

Article IV: ENERGY STAR Portfolio Manager Reporting

1. Upon Client request, YES will assume responsibility for Energy Star reporting. Client will be invoiced the Energy Star Fee listed on Schedule A (Fee Schedule). If no Energy Star Fee is listed on Schedule A (Fee Schedule), this article is not applicable.
2. Client understands and agrees that it is responsible for registering for the ENERGY STAR Portfolio Manager program, and for identifying which Properties should be benchmarked for ENERGY STAR purposes (the "**Relevant Properties**").
3. Client understands and agrees that it is responsible for providing certain required information relating to the ENERGY STAR Portfolio Manager program (the "**Client Property Data**"), and for keeping such Client Property Data accurate and up-to-date. Client shall be responsible for any fees assessed by Vendors for access to or provision of Client Property Data. Client acknowledges and agrees that YES disclaims any and all liability relating to untimely, incomplete, or inaccurate information supplied by, or required to be supplied by, Client.
4. YES will input the Client Property Data into its UIP system.
5. YES will capture and save, on a monthly basis, the utility consumption and cost data relating to the Invoices received and processed by YES as part of its UIP service with respect to the Relevant Properties (the "**YES Utility Data**"). YES will upload the YES Utility Data into the UIP system. Client acknowledges and agrees that YES disclaims any and all liability relating to utility invoices that are not delivered to YES as part of YES' UIP service. Client will be responsible for any such invoices.
6. On at least an annual basis, YES will submit the Client Property Data and YES Utility Data to ENERGY STAR Portfolio Manager. YES will not make any such submittal if Client fails to deliver to YES the Client Property Data.
7. If YES receives an ENERGY STAR score or rating from ENERGY STAR Portfolio Manager with respect to a Client Property, YES will notify Client of such score or rating, and input it into YES' UIP system.
8. Client remains responsible for any required submittals to governmental agencies or entities.
9. In certain circumstances Client's tenant(s) or other third party (collectively, "**Tenants**") may enroll directly with utility providers and receive invoices directly from the utility provider ("**Third-Party Invoice**"). Client agrees that YES is not responsible for obtaining Third Party Invoices from Client's Tenants; provided, however, that YES will use reasonable efforts to assist in obtaining Third Party Invoices to the extent reasonably requested by Client. YES' sole obligations with respect to processing Third-Party Invoices shall be to: (1) digitize the invoice, (2) make available a copy of the invoice and its data, and (3) submit relevant data required for registering the Relevant Properties for the ENERGY STAR Portfolio Manager program. Client shall pay all fees relating to the processing of each Third-Party Invoice (based on the amounts set forth on Schedule A) in the same manner as if the invoice was received directly by YES on behalf of Client.

Article V: Change of Ownership ("COO") Service

1. Upon Client request YES will assume responsibility for transferring ownership and control of Vendor utility accounts at a newly acquired property from the prior owner to Client. For each property, Client will be invoiced the COO Fee listed on Schedule A (Fee Schedule).
2. YES and Client agree to abide by the procedures listed in Exhibit 1 (Change of Ownership (COO) Service Procedures).
3. YES is not responsible for any delays caused by a Vendor, or Client's failure to provide required information and/or perform requested tasks.

EXHIBIT 1

Change of Ownership (COO) Service Procedures

Change of Ownership (COO) Procedures
Information from Client
Client will immediately provide YES with all required information needed to complete the COO process including but not limited to:
<ul style="list-style-type: none"> • Legal name and tax identification numbers for the prior owner and new owner entity • Copy of property deed • Executed IRS Form W-9 for the new owner entity • A spreadsheet containing a list of all Vendors and corresponding account numbers and meter service addresses <ul style="list-style-type: none"> ◦ In the alternative, Client may provide at least one Invoice image for each Vendor and YES will create the account spreadsheet for Client approval and verification. Client expressly acknowledges and agrees that, to the extent that Client elects to have YES create the vendor account spreadsheet, the implementation timeline to complete the COO process will be reasonably extended.
YES Responsibilities
YES will be responsible for the following:
<ul style="list-style-type: none"> • Providing Client with a Change of Ownership Enrollment form ("COO Enrollment Form") for Client's review and completion. • Contacting Vendors to determine required deposits and/or surety bonds • Drafting letters for client signature authorizing YES' access to Vendor accounts for purposes of providing the services described in the Agreement. • At YES' discretion, making emergency payments to avoid imminent disconnections or notifying Client of pending disconnections • At YES' discretion, making deposit payments or notifying Client of a required deposit • Forwarding any unpaid Invoices for service dates prior to the purchase date of the Property to a Client designated point of contact for the prior owner • Procuring necessary forms agreements for Client signature such as change of address forms and continuing service agreements for vacant units • Assisting Client with utility reconnections for vacant units disconnected due to a lapsed continuing service agreement. • In the event that Client notifies YES of an Invoice that is being incorrectly mailed to the improper address, YES will investigate and seek to remedy the error. Client agrees that, in no case, shall YES be liable for any failure or delay in payment for Invoices which were sent by a Vendor to an incorrect address. • Once accounts are ready for Invoice processing, processing unpaid Invoices not currently scheduled for payment • Confirming with Vendors and property manager that COO process has been completed for all accounts
Client Responsibilities
Client will be responsible for the following:
<ul style="list-style-type: none"> • Completing the COO Enrollment Form and providing all Vendor account information including, but not limited to, the required information specified in the COO Enrollment Form ("Required Account Information"). Client is solely responsible for providing the Required Account Information. Any delay in providing the Required Account Information will delay the completion of the COO implementation process. • Paying surety bonds and deposits, as required by Vendors. • Immediately reimbursing YES for emergency payments to avoid disconnections or deposit payments • Promptly executing letters of authorization and other paperwork (e.g., Vendor change of address forms, continuing service agreements, etc.) as may be required by Vendors from time-to-time. • Forwarding unpaid Invoices not currently scheduled for payment for Invoice processing. • Informing YES of any required utility reconnections for vacant units disconnected due to a lapsed continuing service agreement and providing reasonable assistance to YES in completing reconnecting of service to such vacant unit(s). • Promptly notifying YES of any Invoices which have been incorrectly mailed to the Property address by the Vendor. • Providing reasonable and prompt assistance to complete the COO implementation process and, on an ongoing basis, promptly notifying YES of any changes in Vendor accounts.

SCHEDULE E

Energy Procurement Service Level Agreement

YES will provide the Energy Procurement service as described below:

Article I: Activation of Energy Procurement Service

1. The Energy Procurement service is not automatically activated upon the execution of the Agreement, and Client will not be obligated to pay any Energy Procurement Fees unless this service is activated by Client.
2. Energy Procurement Fees will only be payable to YES if Client signs an energy supply agreement with a third-party energy supplier while utilizing the Energy Procurement service.

Article II: Request for Pricing ("RFP") Authorization

1. YES may review property and account data tracked through the Licensed Programs and alert Client to potential energy procurement opportunities.
2. Upon Client authorization, YES will collect, review, and verify Client's utility data directly from the utility to verify the property and account data tracked through the Licensed Programs.
3. Upon Client authorization, YES will prepare and distribute a RFP to third-party energy suppliers on behalf of Client, and will present Client with a RFP analysis to show the value of signing a third-party energy supply agreement.
4. YES will manage the review and execution process of the third-party energy supply agreements with Client.
5. YES will track the Client's executed energy supply agreements and alert the Client of energy procurement opportunities in order to initiate future RFPs upon expiration of the executed agreements.
6. Client acknowledges and agrees that Client retains the sole right to accept or reject YES' recommendations as well as any energy supply agreements or third-party energy suppliers that YES presents to the Client. Client is under no obligation to sign an energy supply agreement presented by YES.

Article III: Energy Procurement Fees

1. Upon Client activation of Energy Procurement service, Client's per kWh, per ccf, or per therm Fees will be added by the third-party energy supplier to the contract price in the energy supply agreement. The Energy Procurement Fees will be paid by the supplier directly to YES, and Client will not be invoiced for any Energy Procurement Fees by YES. The Fees will commence the first month that supply service is initiated under the energy supply agreement, and will continue for the energy supply agreement term, including any renewal terms. The Fee will be calculated by multiplying the per kWh, per ccf, or per therm Fee times the Client's monthly consumption, based on the energy supplier's invoice.
2. If Client terminates the Agreement, Client agrees to pay YES the balance of the Energy Procurement Fees through the end of any current energy supply agreement term.

Summerlyn Place

Master Meter Exhibit

Account #	Meter Number (Compound Meters)	Meter Size	Units Served	Service Address	Water Service Charge	Sewer Service Charge
25-032002-002	60841943	1"	12	784 Boone Station Dr, Bldg 2	\$0.00	\$0.00
25-032004-002	60841937	1"	12	788 Boone Station Dr, Bldg 4	\$0.00	\$0.00
25-032012-002	60838795	1"	12	710 Boone Station	\$0.00	\$0.00
25-032009-002	60838797	1"	12	760 Boone Station Dr, Bldg 9	\$0.00	\$0.00
25-032005-012	60841944	1"	12	780 Boone Station Dr, Bldg 5	\$0.00	\$0.00
25-032007-012	60833897	1"	8	770 Boone Station Dr, Bldg 7	\$0.00	\$0.00
25-032008-002	60841938	1"	12	772 Boone Station Dr, Bldg 8	\$0.00	\$0.00
25-032001-002	60841940	1"	12	790 Boone Station Dr, Bldg 1	\$0.00	\$0.00
25-032010-012	60841939	1"	12	730 Boone Station Dr	\$0.00	\$0.00
25-032006-002	160841942	1"	12	782 Boone Station Dr, Bldg 6	\$0.00	\$0.00
25-032011-002	60841941	1"	12	720 Boone Station Dr, Bldg 11	\$0.00	\$0.00
25-032003-002	60838796	1"	12	786 Boone Station Dr, Bldg 3	\$0.00	\$0.00
# of Dwelling Units:			104	Total	\$0.00	\$0.00

Size	Water	Sewer
1"	0	0
1 1/2"	0	0
2"	0	0
4"	0	0

Common Area Accounts

Account #	Meter Number (Compound Meters)	Meter Size	Service Address	Service Purpose
25-032000-002	60834224	0	750 Boone Station Dr, Bldg Club	Clubhouse
25-031990-002	49162309	0	750 Boone Station Dr, Apt Irri	Irrigation

Water Service Charge	\$0.00
Per Unit	\$0.00
Sewer Service Charge	\$0.00
Per Unit	\$0.00
Water Admin Fee	\$0.00
Waste Water Admin Fee	\$0.00
Applicant's meter reading, billing, collecting cost	\$3.75
	<u>\$3.75</u>

Summerlyn Place
City Of Burlington

	Tier	gallons	Cost/kgal
Water	Tier 1	10,000	\$4.24
	Tier 2	100,000	\$3.82
	Tier 3	1,000,000	\$3.38
	Tier 4		\$2.12
Sewer	Tier 1	10,000,000	\$5.21
	Tier 2		3.25

Water Rates:

Service Address / Building	Units Served	x 4,000 Gallons	Tier 1 Allocation gallons	Tier 1 Cost	Tier 2 Allocation gallons	Tier 2 Cost	Total	Total \$ / Total Consumption
784 Boone Station Dr, Bldg 2	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
788 Boone Station Dr, Bldg 4	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
710 Boone Station	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
760 Boone Station Dr, Bldg 9	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
780 Boone Station Dr, Bldg 5	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
770 Boone Station Dr, Bldg 7	8	32,000	10,000	\$42.40	22000	\$84.04	\$126.44	\$0.003951
772 Boone Station Dr, Bldg 8	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
790 Boone Station Dr, Bldg 1	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
730 Boone Station Dr	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
782 Boone Station Dr, Bldg 6	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
720 Boone Station Dr, Bldg 11	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908
786 Boone Station Dr, Bldg 3	12	48,000	10,000	\$42.40	38000	\$145.16	\$187.56	\$0.003908

Total Units 140

Average Rate per kgal:

\$3.91

Average Rate per ccf:

\$2.92

Sewer Rates:

Service Address / Building	Units Served	x 4,000 Gallons	All Usage @ \$5.21 per CCF	Total	Total \$ / Total Consumption
784 Boone Station Dr, Bldg 2	12	48,000	\$250.08	\$250.08	\$0.005210
788 Boone Station Dr, Bldg 4	12	48,000	\$250.08	\$250.08	\$0.005210
710 Boone Station	12	48,000	\$250.08	\$250.08	\$0.005210
760 Boone Station Dr, Bldg 9	12	48,000	\$250.08	\$250.08	\$0.005210
780 Boone Station Dr, Bldg 5	12	48,000	\$250.08	\$250.08	\$0.005210
770 Boone Station Dr, Bldg 7	8	32,000	\$166.72	\$166.72	\$0.005210
772 Boone Station Dr, Bldg 8	12	48,000	\$250.08	\$250.08	\$0.005210
790 Boone Station Dr, Bldg 1	12	48,000	\$250.08	\$250.08	\$0.005210
730 Boone Station Dr	12	48,000	\$250.08	\$250.08	\$0.005210
782 Boone Station Dr, Bldg 6	12	48,000	\$250.08	\$250.08	\$0.005210
720 Boone Station Dr, Bldg 11	12	48,000	\$250.08	\$250.08	\$0.005210
786 Boone Station Dr, Bldg 3	12	48,000	\$250.08	\$250.08	\$0.005210

Average Usage: 48,000

Average Rate per kgal:

\$5.21

Average Rate per ccf:

\$3.90