

# MASTER SERVICES AGREEMENT

This Master Services Agreement (the "Agreement") is a binding agreement between BNTouch, Inc. ("BNTouch" or "Company") and you ("You," "Your" or "Customer") regarding certain services offered by BNTouch. As further described herein, these terms govern your use of the Service.

BY CLICKING THE "I ACCEPT" BUTTON DISPLAYED AS PART OF THE ORDERING PROCESS, OR BY OTHERWISE MAKING USE OF THE SERVICE, YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS GOVERNING YOUR USE OF BNTOUCH'S ONLINE MORTGAGE CRM, BNTOUCH APPS, PROSONWEB.COM WEBSITE AND PROSONWEB APPS (THE "SERVICE"). THIS AGREEMENT DOES NOT INCLUDE OR GUARANTEE USE OF THE BNSYNC AGENT ("SYNC AGENT") OR PARTICIPATION ON THE BESTINMORTGAGE.COM ("BEST IN MORTGAGE") WEBSITE OR OTHER ANCILARY SERVICES THAT BNTOUCH MAY OFFER NOW OR IN FUTURE, HOWEVER IF SUCH SERVICES ARE USED THEY ARE SUBJECT TO THESE TERMS. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST SELECT THE "I DECLINE" BUTTON AND MAY NOT USE THE SERVICE.

## 1. Services

Subject to the terms and conditions of this Agreement, BNTouch will make available to You, on a subscription fee basis, the BNTouch Mortgage CRM and incident use of the Service. Your registration for, or use of, the Service shall be deemed to be Your agreement to abide by this Agreement including any materials available on the BNTouch website incorporated by reference herein, including but not limited to BNTouch's terms of use and privacy policy which can be viewed online at <http://bntouchmortgage.net/privacy/>. For reference, a Definitions section is included at the end of this Agreement.

## 2. License Grants

BNTouch hereby grants You a non-exclusive, non-transferable, worldwide right to use the Service, solely for Your own internal business purposes, subject to the terms and conditions of this Agreement inclusive of such terms as are incorporated herein by reference. All rights not expressly granted to You are reserved by BNTouch and its licensors. BNTouch will grant a license to the Authorized Users you are permitted to authorize by this Agreement and such license shall be pursuant to the Terms of Use.

Unless otherwise specified in the applicable Order Form, and as further described within this Agreement (i) Services are purchased as Authorized User subscriptions and may be accessed by no more than the specified number of Authorized Users, (ii) additional Authorized User subscriptions may be added during the applicable subscription term, and (iii) any added Authorized User subscriptions terminate on the same date as the termination date for pre-existing

subscriptions. User subscriptions are for designated Authorized Users only and cannot be shared or used by more than one user, but may be reassigned to new Authorized Users, replacing former Authorized Users who no longer require ongoing use of the Services.

### 3. License Restrictions

You shall not (i) license, sublicense, sell, resell, transfer, assign, distribute or otherwise commercially exploit or make available to any third party the Service or the Content in any way; (ii) modify or make derivative works based upon the Service or the Content; (iii) create Internet "links" to the Service or "frame" or "mirror" any Content on any other server or wireless or Internet-based device; or (iv) reverse engineer or access the Service in order to (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of the Service, or (c) copy any ideas, features, functions or graphics of the Service; (v) Publish or disclose to any third parties any evaluation of the Service without BNTouch's prior written consent.

You may use the Service only for Your internal business purposes and shall not: (i) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (ii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third party privacy rights; (iii) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (v) attempt to gain unauthorized access to the Service or its related systems or networks.

### 4. Passwords

Upon registration, BNTouch will issue to You a username and password for your Authorized User, and for which You have paid the applicable fee. You are responsible for keeping Your passwords confidential and to ensure that each password is used by the Authorized User. In the event that a password is lost or misplaced, it is Your responsibility to report the missing password to BNTouch immediately either by phone or email. In the event that a password is lost, a BNTouch Customer Care representative may reset the password for You, in which case You will be notified of the new password by email.

### 5. Account Setup and Ongoing Product Support

Upon completing the registration process the BNTouch customer care department will work with You to assist in setting up Your BNTouch account by providing You with the following services which are included as part of the subscription fee: (i) assisting You with configuring the BNTouch email settings; (ii) mapping and importing a maximum of three compatible databases containing client data, after which additional databases may be mapped and imported for a charge of \$97 USD each; (iii) scheduling and performing training sessions via telephone and over the internet; (iv) providing ongoing training and support via telephone, email, and online chat. The training sessions offered by BNTouch may be hosted on a platform (conference call, webinar, etc.) allowing multiple users to participate at the same time. For organizations with a number of users, individual trainings may be offered to an administrator in BNTouch's discretion, but otherwise all trainings will be held as group trainings. There may be additional fees for support or services not listed here including the creation of additional campaigns, templates or other features that require the assistance of the customer care department or BNTouch staff. In the event that an extra charge

applies, BNTouch will notify You of the charge and obtain Your approval prior to do performing any task to which an extra fee or charge applies.

It is Your responsibility to provide the customer care department with the above materials in order to complete Your account activation and setup, and to schedule training sessions as needed. Because there are times when the customer care department experiences high levels of activity, they may not always be able to respond to Your request immediately be it by phone, email, or online chat. In the event that You are unable to receive support at the time Your request is made, the customer care department will work to resolve Your issue within two business days or a reasonable time, depending on the nature of the request.

## 6. Integrations and Sync

BNTouch offers services and software (collectively, “BNSync”) for the purpose of integrating and transmitting data to and from third-party loan origination services. In particular, these third-party services include certain versions of Encompass and Calyx Point. BNSync is offered for your use and may not be used for any commercial purpose other than to support your use of BNTouch. Your use of any third-party software or service is subject to the terms offered by that third-party, and no guarantee is made that you will be able to take advantage of BNSync. Be advised that through your use of BNSync:

- (i) BNTouch will support your installation of, or access to, BNSync. During the course of installing, configuring or providing support to you, a BNTouch employee or agent may view or receive your confidential information. You are responsible for securing any confidential files or folders prior to installation or configuration. For proper configuration you may be required to disclose your login to the third-party services.
- (ii) You agree to hold BNTouch harmless for any business disruption or interruption in the installation process or through use of BNSync.
- (iii) BNSync is designed to facilitate transfer of data between BNSync and a third-party. The sync process may initiate a marketing campaign, and it is possible contacts residing in your CRM will receive emails or other communications. You agree to hold BNTouch harmless for any such automated actions.
- (iv) BNSync may be used only for legitimate internal purposes, and shall not be used to initiate spam, transmit or store harmful, infringing, or obscene material, or attempt to gain unauthorized access to BNSync or related networks.
- (v) BNTouch may charge access fees, hosting fees, or use fees for the BNSync service, as disclosed on an order form. You agree to such incidental or recurring costs, and that BNTouch may in future increase such fees with prior notice to you.

## 7. Account Information and Data

As may be further described in the Terms of Use, BNTouch does not own any data, information or material that You submit to the Service in the course of using the Service ("Customer Data"). You, not BNTouch, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and BNTouch shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data. BNTouch will not sell or make Your Customer Data available to any third party, nor will BNTouch market to or allow third parties to market to Your Customer Data. In the event this Agreement is terminated (other than by reason of Your

breach), BNTouch will make available to You a file of the Customer Data within 30 days of termination if You so request at the time of termination. BNTouch reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, Your non-payment. Upon termination for cause, Your right to access or use Customer Data immediately ceases, and BNTouch shall have no obligation to maintain or forward any Customer Data.

#### 8. Intellectual Property Ownership

BNTouch alone (and/or its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the BNTouch Technology, the Content and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by You or any other party relating to the Service. BNTouch does not sell its software. This Agreement is not a sale and does not convey to You any rights of ownership in or related to the Service, the BNTouch Technology or the Intellectual Property Rights owned by BNTouch. The BNTouch name, the BNTouch logo, and the product names associated with the Service are trademarks of BNTouch or third parties, and no right or license is granted to use them.

#### 9. Third Party Interactions

In the course of using the Service You may enter into correspondence with, purchase goods and/or services from, or participate in promotions of, advertisers or sponsors showing their goods and/or services through the Service. Upon Your request, BNTouch may also integrate with third party lead providers and software services to facilitate Your business and use of BNTouch. Any such activity, and any terms, conditions, warranties or representations associated with such activity, is solely between You and the applicable third party. BNTouch and its licensors shall have no liability, obligation or responsibility for any such correspondence, purchase or promotion, or integration between You and any such third party. BNTouch does not endorse any sites or services that are referred to in or linked through the Service or integrated with the Service. BNTouch provides these links and integrations to You only as a matter of convenience, and in no event shall BNTouch or its licensors be responsible for any content, products, or other materials on or available from such sites. BNTouch provides the Service to You pursuant to the terms and conditions of this Agreement. You recognize, however, that certain third party providers of ancillary software, hardware or services may require Your agreement to additional or different license or other terms prior to Your use of or access to such software, hardware or services, and that You may not be able to take advantage of portions of the Services if You do not enter such agreements with third parties.

#### 10. Development Services

At your request, BNTouch may offer additional development services to enhance your use of the Services or to provide additional functionality. These services (“Development Services”) will be performed by employees or agents of BNTouch having sufficient knowledge and experience to provide the quality of services customary in the industry. BNTouch will provide the Development Services for an additional cost on a fixed fee, hourly rate, or any other basis. BNTouch will provide you a statement of work, describing in summary the Development Services to be performed, for your signature and no charges will be incurred, and no work completed, without a signed statement of work. If the statement of work describes an hourly rate, you acknowledge that the statement of

work is an estimate only and the actual costs will be based on the hours spent. The following additional terms apply to the Development Services:

- (i) Upon your payment of the fees for the Development Services, BNTouch will grant you a limited use license for the duration of the License Term to make use of the Development Services.
- (ii) You agree to pay the fees for the Development Services in full and shall not withhold taxes or other fees. You have no rights to offset the fees for Development Services against any refund, fees owed, or services performed by you.
- (iii) As described on an attached statement of work, there may be ongoing costs for hosting or support as a result of the Development Services.
- (iv) The parties are and remain independent contractors. The performance of Development Services shall not create a joint venture or employment relationship of any kind.

#### 11. Charges and Payment of Fees

You shall pay all fees or charges to Your account in accordance with the fees, charges, and billing terms in effect at the time a fee or charge is due and payable. The initial charges will be equal to the current number of total User licenses requested multiplied by the User license fee currently in effect plus any applicable setup charges. Payments may be made annually, quarterly, or monthly consistent with the Initial Term, or as otherwise mutually agreed upon in the Service Order Form or other applicable written agreement. You are responsible for paying for all User licenses ordered for the entire License Term, whether or not such User licenses are actively used. You must provide BNTouch with valid credit card or approved purchase order information as a condition to signing up for the Service. You can purchase rights for additional Authorized Users by informing the customer care department of your request. Notwithstanding anything contrary in this Agreement (other than an Order Form, if applicable), added licenses will be subject to the following: (i) added licenses will be coterminous with the preexisting License Term (either Initial Term or renewal term); (ii) the license fee for the added licenses will be the then current, generally applicable license fee; and (iii) licenses added in the middle of a billing month will be charged in full for that billing month. The price per Authorized User You receive upon registration and activation of Your account is locked at that time and will not be raised during the Term. All pricing terms are confidential, and You agree not to disclose them to any third party.

#### 12. Licenses Are Non-Refundable

BNTouch will not issue refunds for unused licenses or remaining time on an existing license regardless of whether or not You choose to cancel Your subscription with BNTouch or reduce the number of user licenses You currently have with BNTouch. By entering into this agreement, You understand that You will not be refunded any portion of Your license fee if You choose to terminate Your license or stop using the system for any reason.

#### 13. Billing and Renewal

BNTouch charges and collects in advance for use of the Service. Upon the expiration of the Initial Term or License Term, this Agreement will automatically renew and You will be charged for a License Term equal to that of the License Term You were initially billed for unless BNTouch notifies you at least ten (10) business days in advance of a price increase. The renewal charge will be equal to the then-current number of total User licenses times the license fee in effect at the time of Your registration, or the quoted price by BNTouch. You will continue to be billed upon the expiration of each term, unless You provide notice at least five (5) business days prior to the end

of Your License Term of Your intention to cancel Your license or change Your License Term. Unless you notify BNTouch at least five (5) business days prior to the end of your License Term, your renewal shall be for the number of User licenses in effect immediately preceding the renewal. Fees for other services will be charged on an as-quoted basis. BNTouch's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and You shall be responsible for payment of all such taxes, levies, or duties, excluding only United States (federal or state) taxes based solely on BNTouch's income.

You agree to provide BNTouch with complete and accurate billing and contact information. This information includes Your legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact and License Administrator. You agree to update this information within 30 days of any change to it. If the contact information You have provided is false or fraudulent, BNTouch reserves the right to terminate Your access to the Service in addition to any other legal remedies.

If You believe Your bill is incorrect, You must contact us in writing within 60 days of the invoice date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

#### 14. Non-Payment and Suspension

BNTouch reserves the right to suspend or terminate this Agreement and Your access to the Service (along with that of your Authorized Users) if Your account becomes delinquent (falls into arrears). You will continue to be charged for User licenses during any period of suspension. If You or BNTouch initiates termination of this Agreement, You will be obligated to pay the balance due on Your account computed in accordance with the Charges and Payment of Fees section above. You agree that BNTouch may charge such unpaid fees to Your credit card or otherwise bill You for such unpaid fees.

BNTouch reserves the right to impose a reconnection fee in the event You are suspended and thereafter request access to the Service. You agree and acknowledge that BNTouch has no obligation to retain Customer Data and that such Customer Data may be irretrievably deleted if Your account is 30 days or more delinquent.

#### 15. Termination upon Expiration

This Agreement commences on the Effective Date. Upon the expiration of the Initial Term or License Term, this Agreement will automatically renew as provided above. In the event this Agreement is terminated (other than by reason of Your breach), BNTouch will make available to You a file of the Customer Data within 30 days of termination if You so request at the time of termination. You agree and acknowledge that BNTouch has no obligation to retain the Customer Data, and may delete such Customer Data, more than 30 days after termination.

#### 16. Termination for Cause

Any breach of Your payment obligations, breach of confidentiality or unauthorized use of the BNTouch Technology or Service will be deemed a material breach of this Agreement. BNTouch, in its sole discretion, may terminate Your password, account or use of the Service if You breach or otherwise fail to comply with this Agreement. In addition, BNTouch may terminate a promotional, demo or trial account at any time in its sole discretion. You agree and acknowledge that BNTouch has no obligation to retain the Customer Data, and may delete such Customer Data,

if You have materially breached this Agreement, including but not limited to failure to pay outstanding fees, and such breach has not been cured within 30 days of notice of such breach.

#### 17. Representations & Warranties

Each party represents and warrants that it has the legal power and authority to enter into this Agreement. BNTouch represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially in accordance with the online BNTouch help documentation under normal use and circumstances. You represent and warrant that You have not falsely identified Yourself nor provided any false information to gain access to the Service, have adequate rights in the Customer Information and that Your billing information is correct.

#### 18. Mutual Indemnification

You shall indemnify and hold BNTouch, its licensors, and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (i) a claim alleging that use of the Customer Data infringes the rights of, or has caused harm to, a third party; (ii) a claim, which if true, would constitute a violation by You of Your representations and warranties; (iii) any allegation or claim that Your use of the Service violated applicable law; or (iv) a claim arising from the breach by You or Your Authorized Users of this Agreement. In each case your obligation to indemnify is provided that BNTouch (a) gives written notice of the claim to You; (b) gives You sole control of the defense and settlement of the claim (provided that You may not settle any claim unless You unconditionally release BNTouch of all liability and such settlement does not affect BNTouch's business or Service); and (c) reasonably provides to You information relevant to the claim and assistance at your request.

BNTouch shall indemnify and hold You and Your parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of with a judgment or final binding award based on: (i) a claim that the Service directly infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a third party; (ii) a claim, which if true, would constitute a violation by BNTouch of its representations or warranties; or (iii) a claim arising from breach of this Agreement by BNTouch; provided that You (a) promptly give written notice of the claim to BNTouch; (b) give BNTouch sole control of the defense and settlement of the claim (provided that BNTouch may not settle or defend any claim unless it unconditionally releases You of all liability); (c) provide to BNTouch all available information and assistance; and (d) have not compromised or settled such claim. BNTouch shall have no indemnification obligation, and You shall indemnify BNTouch pursuant to this Agreement, for claims arising in whole or in part: (a) from the combination of the Service with any of Your or another's products, service, hardware or business processes; (b) modification of the Service by anyone other than BNTouch or BNTouch's designee; (c) or use of the Services other than as provided by this Agreement.

#### 19. Disclaimer of Warranties

BNTOUCH AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR ANY CONTENT. BNTOUCH AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (C) ANY STORED DATA WILL BE ACCURATE OR RELIABLE, (D) THE QUALITY OF ANY PRODUCTS, SERVICES, INFORMATION, OR OTHER MATERIAL PURCHASED OR OBTAINED BY YOU THROUGH THE SERVICE WILL MEET YOUR REQUIREMENTS OR EXPECTATIONS, (E) ERRORS OR DEFECTS WILL BE CORRECTED, (F) THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR (G) THAT THE SERVICE IS COMPLIANT WITH LAWS AND REGULATIONS GOVERNING YOUR USE OF THE SERVICE. THE SERVICE AND ALL CONTENT IS PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS. ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY BNTOUCH AND ITS LICENSORS.

#### 20. Internet Delays

BNTOUCH'S SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. BNTOUCH IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

#### 21. Limitation of Liability

IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY EXCEED THE AMOUNTS ACTUALLY PAID BY AND/OR DUE FROM YOU IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE TO ANYONE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THIS SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, REGARDLESS OF CAUSE IN THE CONTENT, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

#### 22. Additional Rights



Certain states and/or jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental, consequential or certain other types of damages, so the exclusions set forth above may not apply to You.

#### 23. Nature of Use.

BNTouch provides software services for use by mortgage professionals, but cannot and does not provide any assurances that use of the Service is appropriate or compliant with any regulation or law governing any particular industry. For example, although the Service uses industry standard measures to ensure privacy and security of certain information, BNTouch cannot and does not certify compliance with measures under US law governing the transmission or storage of financial information, including but not limited to the Graham-Leach-Bliley Act. You are solely responsible for Your own compliance with laws and regulations of Your industry.

#### 24. Notice

BNTouch may give notice by means of a general notice on the Service, electronic mail to Your e-mail address on record in BNTouch's account information, or by written communication sent by first class mail or pre-paid post to Your address on record with BNTouch's. Such notice shall be deemed to have been given upon the expiration of 48 hours after mailing or posting (if sent by first class mail or pre-paid post) or 12 hours after sending (if sent by email). You may give notice to BNTouch (such notice shall be deemed given when received by BNTouch) at any time by any of the following: letter sent by confirmed facsimile to BNTouch at the following fax numbers (whichever is appropriate): (503) 924-1814; letter delivered by nationally recognized overnight delivery service or first class postage prepaid mail to BNTouch at the following addresses (whichever is appropriate): BNTouch, Inc., 4130 SW 117<sup>th</sup> Ave., Ste 404, Beaverton, OR 97005, addressed to the attention of: Chief Executive Officer.

#### 25. Modification to Terms

BNTouch reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Service at any time, effective upon the date of the notice. Continued use of the Service after any such changes shall constitute Your consent to such changes.

#### 26. Assignment

This Agreement may not be assigned by You without the prior written approval of BNTouch but may be assigned without Your consent by BNTouch to (i) a parent or subsidiary, (ii) an acquirer of assets, or (iii) a successor by merger. Any purported assignment in violation of this section shall be void.

#### 27. General

This Agreement shall be governed by Oregon law, without regard to the choice or conflicts of law provisions of any jurisdiction, and any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service shall be subject to the exclusive jurisdiction of the state and federal courts located Portland, Oregon. No text or information set forth on any other purchase order, preprinted form or document (other than an Order Form, if applicable) shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable

provision(s), with all other provisions remaining in full force and effect. No joint venture, partnership, employment, or agency relationship exists between You and BNTouch as a result of this agreement or use of the Service. The failure of BNTouch to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision unless acknowledged and agreed to by BNTouch in writing. This Agreement, together with any applicable Order Form, comprises the entire agreement between You and BNTouch and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein.

## 28. Entire Agreement

This Agreement sets forth the entire understanding and agreement of the parties and supersedes any and all oral or written agreements or understandings between the parties as to the subject matter of this Agreement. This Agreement may only be amended in a writing jointly executed by both parties hereto.

## 29. Definitions

As used in this Agreement and in any Order Forms now or hereafter associated herewith: "Agreement" means this Master Services Agreement, any Order Forms, whether written or submitted online, and any materials available on the BNTouch website specifically incorporated by reference herein, as such materials, including the terms of this Agreement, may be updated by BNTouch from time to time in its sole discretion; "Authorized User" means You and any individual whom You authorize to use the Services. A "User" may include Your employee, consultant, contractor or agent, as well as those professionals you authorize to use the ProsOnWeb.com tools; "Content" means the audio and visual information, documents, software, products and services contained or made available to You in the course of using the Service; "Customer Data" means any data, information or material provided or submitted by You to the Service in the course of using the Service; "Effective Date" means the earlier of either the date this Agreement is accepted by selecting the "I Accept" option presented on the screen after this Agreement is displayed or the date You begin using the Service; ["e-Signature service" means the means of collecting or making electronic signatures offered by BNTouch pursuant to the e-Signature terms;](#) "Initial Term" means the initial period during which You are obligated to pay for the Service equal to the billing frequency selected by You during the subscription process (e.g., if the billing frequency is quarterly, the Initial Term is the first quarter); "Intellectual Property Rights" means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world; "License Term(s)" means the period(s) during which a specified number of Users are licensed to use the Service pursuant to the Order Form(s); "Order Form(s)" means the form evidencing the initial subscription for the Service and any subsequent order forms submitted online or in written form, specifying, among other things, the number of licenses and other services contracted for, the applicable fees, the billing period, and other charges as agreed to between the parties, each such Order Form to be incorporated into and to become a part of this Agreement (in the event of any conflict between the terms of this Agreement and the terms of any such Order Form, the terms of this Agreement shall prevail); "BNTouch" means collectively BNTouch, Inc., an Oregon corporation, having its principal place of business at 4130 SW 117<sup>th</sup> Ave., Ste 404, Beaverton, OR 97005; "BNTouch Technology"

means all of BNTouch's proprietary technology (including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to You by BNTouch in providing the Service; "Service(s)" means the specific edition of BNTouch's online customer relationship management, billing, data analysis, or other corporate ERP services identified during the ordering process, developed, operated, and maintained by BNTouch, accessible via <http://www.BNTouchMortgage.com> or another designated web site or IP address, or ancillary services rendered to You by BNTouch, to which You are being granted access under this Agreement, including the BNTouch Technology and the Content; "User(s)" means Your employees, representatives, consultants, contractors or agents who are authorized to use the Service and have been supplied user identifications and passwords by You (or by BNTouch at Your request).

**Questions or Additional Information:**

If You have questions regarding this Agreement or wish to obtain additional information, please send an e-mail to [info@BNTouchMortgage.com](mailto:info@BNTouchMortgage.com)