

MFA

PRIVATE NETWORK SUBSCRIBER AGREEMENT

CAREFULLY READ THE FOLLOWING MULTEFIRE ALLIANCE (“MFA”) PRIVATE NETWORK SUBSCRIBER AGREEMENT (THE “AGREEMENT”). BY COMPLETING ONLINE FORM AND SIGNING UP TO BECOME MFA PRIVATE NETWORK SUBSCRIBER AND CLICKING ON THE “ACCEPT” BUTTON, THE PRIVATE NETWORK SUBSCRIBER IS CONSENTING TO AND AGREES TO BE BOUND BY, AND IS BECOMING A PARTY TO, THIS AGREEMENT. IF THE PRIVATE NETWORK SUBSCRIBER DOES NOT AGREE TO ALL OF THE TERMS OF THIS AGREEMENT, CLICK THE “DO NOT ACCEPT” BUTTON OR LEAVE THE WEBSITE.

BY CLICKING ON THE “ACCEPT” BUTTON, YOU REPRESENT AND WARRANT THAT YOU ARE DULY AUTHORIZED AND HAVE LEGAL CAPACITY TO ACCEPT AND DELIVER THIS AGREEMENT ON BEHALF OF THE PRIVATE NETWORK SUBSCRIBER. YOU FURTHER REPRESENT AND WARRANT THAT THE ACCEPTANCE AND DELIVERY OF THE AGREEMENT AND THE PERFORMANCE OF THE PRIVATE NETWORK SUBSCRIBER’S OBLIGATIONS HEREUNDER HAVE BEEN DULY AUTHORIZED AND THAT THE AGREEMENT IS A VALID AND LEGAL AGREEMENT BINDING ON THE PRIVATE NETWORK SUBSCRIBER AND ENFORCEABLE IN ACCORDANCE WITH ITS TERMS.

This Agreement is entered into effective as of the date of acceptance of this Agreement (the “Effective Date”) by the company that has completed the MFA online form to sign up as an MFA Private Network Subscriber (the “Subscriber”), and MFA, a California nonprofit mutual benefit corporation, with its principal address located at 5177 Brandin Court, Fremont, CA 94538, USA (hereinafter, the “Corporation”).

In consideration of the agreements and the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. No Membership Rights. Subscriber acknowledges and agrees that by accepting this Agreement, it has agreed to become only the Subscriber under this Agreement and nothing in this Agreement shall grant Subscriber any membership or other participation rights in the Corporation.
2. Subscriber Benefits. The Corporation shall grant to Subscriber the benefits as established by the Corporation Board of Directors (the “Board”) from time to time. Notwithstanding the foregoing, Subscriber shall not receive any benefits, privileges or voting rights applicable to the Corporation members or other participants.
3. Subscriber’s Feedback. In the event Subscriber (including its employees, officers, directors, contractors, agents and representatives) provides to the Corporation any information, comments, feedback, evaluation and/or input under this Agreement and/or with respect to any information, documents, materials or activities of the Corporation (collectively, the “Feedback”), such Feedback shall be owned by the Corporation without any restrictions, the Subscriber assigns to the Corporation its right, title and interest in the Feedback, and the Corporation shall have the right but not the obligation, in its sole discretion, to use the Feedback for any purpose and make any derivative works to the Feedback.
4. No Warranty. ALL INFORMATION PROVIDED TO SUBSCRIBER AS PART OF ANY ACTIVITIES OF THE CORPORATION, INCLUDING, WITHOUT LIMITATION PRIVATE NETWORK IDENTIFIER PROGRAM, OR PROPOSED OR FINAL SPECIFICATION(S) IS PROVIDED TO SUBSCRIBER “AS IS”, “WITH ALL FAULTS”, WITH NO WARRANTIES OR REPRESENTATIONS OF ANY KIND WHATSOEVER, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR ANY PARTICULAR PURPOSE, VALIDITY OF PATENT CLAIMS, WHETHER ISSUED OR PENDING, OR THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE.
5. Subscriber Fees. Subscriber shall pay to the Corporation the applicable fees for Subscriber’s benefits and services provided by the Corporation as established by the Board from time to time. The failure to pay such fees will subject the Subscriber to immediate termination of its status as Subscriber in the Corporation and termination of this Agreement.

6. Term and Termination. The term of this Agreement shall begin on the Effective Date and shall continue thereafter until the following: (i) termination by Subscriber of this Agreement for any reason upon thirty (30) days written notice to the Corporation; (ii) failure to pay by Subscriber applicable fees established by the Board within thirty (30) days after such fees are due; (iii) failure to renew (if applicable) Subscriber's status as Subscriber; (iv) enrollment of Subscriber as a member or other participant of the Corporation; (v) termination by the Corporation of this Agreement for any reason upon sixty (60) days written notice (which may be via email correspondence) to Subscriber; and (vi) termination by the Corporation of this Agreement upon written notice by the Corporation to Subscriber (which may be via email correspondence) in the event of breach by Subscriber of any applicable laws and/or any provision of this Agreement, and failure by Subscriber to cure such breach (if such breach is capable of cure) within thirty (30) days of the written notice provided by the Corporation. Upon termination of this Agreement, Subscriber will not be entitled to a refund of any fees paid to the Corporation prior to the date of termination of this Agreement, and the following Sections will survive any termination of this Agreement: Sections 3 (Subscriber's Feedback), 4 (No Warranty), 5 (Subscriber Fees), 6 (Term and Termination), 10 (Confidentiality), 11 (Limitation of Liability), and 12 (General).

7. Press Releases and Other Public Announcements. Subscriber may make a press or other public announcement regarding being a Subscriber under the terms of this Agreement, provided that Subscriber shall not use, name, or include the identities of any member or other participant of the Corporation in any form of publicity or public announcement without the prior written consent of such other member or participant. Subscriber is not authorized to provide quotes or comments on behalf of the Corporation.

8. Network Identifier(s) Issued by the Corporation. In the event Subscriber desires to apply for and receive certain unique network identifier(s) administration and issuance of which is managed by the Corporation pursuant to its network identifier program (each, a "**Network Identifier**," and collectively, the "**Network Identifiers**"), Subscriber shall follow the established by the Corporation process for the issuance, receipt and administration of such Network Identifier(s) and agree to the terms of conditions of the Corporation's form of Network Identifier Usage Agreement or other similar form of agreement as established by the Corporation from time to time.

9. Use of Subscriber's Name & Logo. Subject to written notice of revocation by the Subscriber to the Corporation upon termination of this Agreement, the Corporation may publish and display Subscriber's name and logo on the Corporation's website(s) and in other Corporation collateral prepared and approved by the Board or duly authorized committee, and such use will be made in accordance with (i) the name and logo usage policy to be established by the Board or any duly authorized committee and (ii) any reasonable name and logo usage policy of Subscriber communicated in writing by Subscriber to the Corporation.

10. Confidentiality. For purposes of this Agreement, "**Confidential Information**" will include, but not be limited to, information concerning the Corporation's operations, technical specifications, products, customers, members, trade secrets, data processing systems and components, software programs (including source code), business plans, personnel, projects in process, finances, member information or other information designated by the Corporation as Confidential Information. Confidential Information does not include any information which is: (a) published or otherwise available to the public other than by breach of this Agreement by the Subscriber; (b) rightfully received by a Subscriber from a third party without confidential limitations; (c) independently developed by the Subscriber as evidenced by the Subscriber by appropriate written records; (d) known to the Subscriber prior to its first receipt of same from the Corporation as evidenced by appropriate written records or other credible evidence; or (e) approved for public release by written authorization of the Corporation. Subscriber agrees that it will not disclose to any third party the Confidential Information of the Corporation without the Corporation's written consent and that it will use the Confidential Information of the Corporation only as necessary to perform its obligations hereunder. Within fifteen (15) days following receipt of a written request from the Corporation, Subscriber shall destroy or deliver to the Corporation, as directed by the Corporation, all materials containing or embodying the Corporation's Confidential Information in Subscriber's possession or control, including materials in tangible or electronic format, and shall certify such delivery or destruction in writing. The provisions of this Section 10 will survive the termination of this Agreement for a period of three (3) years after termination of this Agreement.

11. Limitation of Liability. IN NO EVENT WILL THE CORPORATION, ITS MEMBERS OR PARTICIPANTS BE LIABLE, WHETHER UNDER THIS AGREEMENT OR OTHERWISE, TO SUBSCRIBER OR ANY OTHER PERSON FOR ANY LOST PROFITS, LOSS OF USE, LOSS OF DATA, OR ANY COST OF PROCURING SUBSTITUTE GOODS

OR SERVICES, OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, PUNITIVE OR SPECIAL DAMAGES, REGARDLESS OF THE FORM OR CAUSE OF ACTION, WHETHER FOR BREACH OF CONTRACT, TORT, NEGLIGENCE, BREACH OF WARRANTY OR OTHERWISE, WHETHER OR NOT SUBSCRIBER HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

12. General. This Agreement shall be construed and controlled, and the legal relations of the parties hereto shall be determined, in accordance with the substantive laws of the State of California, United States of America, without regard to the conflict of law principles thereof. Any suit, action or proceeding, including without limitations actions by and between members or participants, arising from or relating to this Agreement must be brought in either Federal or State court for the County and City of San Francisco, California, USA, and each party irrevocably consents to the exclusive jurisdiction and venue of any such court in any such suit, action or proceeding. All notices hereunder shall be in writing and sent to Subscriber at the address indicated by the Subscriber to the Corporation in its online subscription form or application, and to the Corporation at the address indicated in the third paragraph of this Agreement or at such address as either party may later specify by such written notice. Such notices shall be deemed made and given three (3) days after sending, if mailed by registered or certified mail, postage prepaid, return receipt requested, or one (1) day after sending, if sent by express courier service or facsimile/electronic transmission. Subscriber and the Corporation are independent companies, and no employment, agency, or partnership relationship shall be construed to exist between the parties. Subscriber may not enter into any contract, commitment or agreement binding the Corporation or any other member or participant of the Corporation. This Agreement sets forth the entire understanding of the parties and supersedes all prior agreements, representations and understandings relating hereto. This Agreement may be amended only upon the written agreement of Subscriber and the Corporation. Any waiver of a party's rights hereunder must be set forth in a writing executed by a duly authorized representative of such party, and absent such writing, the failure by either party to exercise any of its rights under this Agreement will not be deemed to constitute a waiver of any of such rights, or other rights or remedies available to such party. In the event that any provision hereof or any obligation hereunder is found invalid or unenforceable pursuant to judicial decree or decision, any such provision or obligation shall be deemed and construed to extend only to the maximum permitted by law, and the remainder of this Agreement shall remain valid and enforceable according to its terms. Subscriber may not assign this Agreement to any third party by operation of law, as a result of a change in control, or otherwise and any attempted assignment in violation of this Section will be void. This Agreement is prepared in the English language only and any translations of this Agreement into any other language shall have no effect. All proceedings related to this Agreement shall be conducted in the English language.