



INERTIA SYSTEMS USER TERMS AND CONDITIONS

Last Updated: February 2020

Definitions:

Inertia - The company, "Inertia Systems," providing software, services, documentation, and support to Customer/User.

Customer - The person, persons, or entity entering into this Agreement with Inertia.

User - The individual, who is granted access to Inertia Services by Inertia or a Customer with authority to grant User access, entering into this Agreement with Inertia.

Agreement - This document (Inertia Systems Terms and Conditions) in its entirety, unedited or altered unless agreed upon in writing by Inertia and Customer/User.

Policy - A rule or collection of rules created by Inertia that Inertia honors in good faith.

Term - The interval of time during which Inertia provides services, software, documentation, and support to Customer/User (likely congruent with project duration).

1. SAAS SERVICE AND SUPPORT

1.1 Subject to the Terms of this Agreement, Inertia will use commercially reasonable efforts to provide User the services. Inertia reserves the right to refuse or cancel registration of passwords and emails it deems inappropriate.

1.2 Subject to the Terms of this Agreement, Inertia will provide users with reasonable technical support services in accordance with the customer service policy in Exhibit C.

1.3 Subject to the Terms of this Agreement, Customer will provide Inertia with relevant CAD data. Inertia will provide service updates pursuant to modifications of CAD data as outlined in Exhibit D.

1.4 This Agreement may be impacted or overwritten in part by the terms of the Inertia Subscription Terms and Services Agreement.

2. RESTRICTIONS AND RESPONSIBILITIES

2.1 User will not directly or indirectly reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code, object code, or underlying structure, ideas, or algorithms relevant to the services or any software, documentation, or data related to the services provided by Inertia. User will not attempt to modify, translate, or create derivative

works based on the services or software provided by Inertia except by the written expressed permission of Inertia or authorized within the services. User will not use the services or any software provided by Inertia for time sharing or service bureau purposes or otherwise for the benefit of a third party, or remove any proprietary notices or labels. Inertia hereby grants User with a non-exclusive, non-transferable, non-sublicensable license to use software and services provided by Inertia during the Term, only in connection with the services.

2.2 User may not remove, export, allow the removal, or allow the export of the services, software, or anything related thereto from the United States, or any direct product thereof in violation of any restriction, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101. The software, services, and documentation provided by Inertia are "commercial items" and according to DFAR section 252.2277014(a)(1) and (5), are deemed to be "Commercial computer software" and "Commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation be the U.S.

Government will be governed solely by the Terms of this Agreement and will be prohibited except to the extent expressly permitted by the Terms of this Agreement.

2.3 Subject to the Terms of this Agreement, User represents, covenants, and warrants that User will use the software, documentation, and services only in compliance with Inertia's standard published policies then in effect and all applicable laws and regulations. User hereby agrees to indemnify and hold harmless Inertia against any damages, losses, liabilities, settlements, and expenses (including, without limitation, costs and attorney fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from User's use of services. Although Inertia has no obligation to monitor use of the software, documentation, or services, Inertia may do so and may prohibit any use of software, documentation, or services it believes may be (or alleged to be) in violation of the foregoing.

2.4 User shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect, access, or otherwise use software, documentation, and services provided by Inertia, including, without limitation, modems, hardware, servers, software, operating systems, networking, web services, and any other necessary technology (collectively, "equipment").

2.5 User shall be responsible for entering its data into the service, and shall be responsible for the maintenance of data supplied by it. Inertia is not responsible for entering data for User. User hereby represents and warrants to Inertia that User's data is free of all viruses, Trojan horses, and elements which could harm the software, service, or website used by Inertia to provide services.

2.6 User shall change all passwords used to access Inertia services at regular intervals. Should User learn of a third party having obtained knowledge of a password, or another User that should no longer have access to the service, User shall inform Inertia thereof without undue delay and promptly change the password or request Inertia deactivate the User access.

2.7 User is responsible for the connection to Inertia services, support, and documentation, including internet connection and any hardware or software necessary to connect. A 'high speed'

broadband internet connection with bi-directional speeds of 5mb/s or greater is recommended. Inertia is not responsible for any faults or deficiencies under this Agreement that result from or are related to User's internet connection.

2.8 Inertia is not responsible for providing any computer equipment necessary to transfer User data to and from Inertia services and software, including but not limited to scanners, printers, and other hardware devices and supporting software. Inertia is not responsible for any faults or deficiencies under this Agreement that result from or relate to the User's hardware and software that is necessary to access and use the service.

2.9 Use of Meta-Data. Inertia may anonymously aggregate non-identifiable User meta-data with non-identifiable anonymous meta-data from other Inertia Users and third parties to create anonymous aggregated meta-data that does not identify any individual User or the metrics or information pertaining to any individual User or its domain ("Aggregated Meta-Data"). Inertia will own all rights to Aggregated Meta-Data, and has the irrevocable right to maintain, store, use and disclose Aggregated Meta-Data.

3. CONFIDENTIALITY; PROPRIETARY RIGHTS

3.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has, must, or may disclose business, technical, or financial information related to the Disclosing Party's business (hereby referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of Inertia includes non-public information regarding features, functionality, and performance of services and software. Proprietary information of User includes non-public data provided by User to Inertia to enable the provision of services and software. The Receiving Party agrees: (i) to take responsible precautions to protect Proprietary Information, and (ii) not to use (except when necessary in performance of services or as otherwise permitted) or divulge to any third party any Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five years following the disclosure thereof or any information that the Receiving Party can document (a) is or

becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or © was rightfully disclosed without restriction by a third party, or (d) was independently developed without use of any Proprietary information of the Disclosing Party, or (e) is required to be disclosed by law.

3.2 Inertia shall own and retain all right, title, and interest in and to (a) the services and Software, all improvements, enhancements, or modifications thereto, (b) any software, applications, inventions, or other technology developed in connection with the software, services, documentation, or support, and © all intellectual property rights related to any of the foregoing.

3.3 User grants Inertia the nonexclusive right to use User Data for the purpose of providing services to User. User grants to Inertia the right to use aggregate data pursuant to section 3.4 herein. Nothing herein shall grant, or shall be construed to grant, Inertia any ownership right of any drawing or graphic on which any person or entity has an existing claimed copyright, trademark, or patent. User grants Inertia the right to retain and use User data and aggregate data for Inertia's analysis, development, marketing, sales, and relevant business purposes.

3.4 Unless otherwise stated in another agreement between User and Inertia, Inertia shall have the right to collect and analyze data and other information relating to the provision, use, and performance of various aspects of the services and related systems and technologies (including, without limitation, information concerning User data and data derived therefrom). And Inertia will be free (during and after the Term hereof) to (i) use such information and data to improve and enhance the services and for other development, diagnostic, and corrective purposes in connection with the services and other Inertia offerings, and (ii) disclose such data solely in aggregate or other non-identifying form in connection with its business.

3.5 Subject to the Terms of this agreement, Inertia may request non-mandatory, voluntary personal information, data, and feedback from User regarding Inertia software, services, documentation, and support before, during, and after the Term. Inertia shall retain the right to use voluntarily

provided information for analysis, development, sales, marketing, and relevant business purposes.

4. PAYMENT OF FEES

4.1 User understands that access to Inertia Services is contingent on an active paid license. Access to Inertia services may be suspended or terminated without notice in the event that User's account is no longer included under an active paid license. Inertia is not liable for any delays, damages, or similar issues that may arise directly or indirectly due to suspended or terminated service.

5. TERM AND TERMINATION

5.1 Subject to earlier termination provided below, this Agreement is for the Initial Service term as specified in the Order Form, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term unless either party requests termination at least thirty days prior to the end of the current Term.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty days' notice (or without notice in case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement. Upon any termination, Inertia will make all User data available for User electronic retrieval for a period of thirty days. Thereafter, Inertia may, but is not obligated to, delete stored User data. All sections of this Agreement which by their nature should persist after termination shall persist, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liabilities.

6. WARRANTY AND DISCLAIMER

6.1 Inertia shall use reasonable efforts consistent with prevailing industry standards to maintain the services in a manner which minimizes errors and interruptions in the services. Inertia shall assist in any Project Setup that is necessary for Inertia to provide services in a professional and reasonable manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Inertia, third-party providers, or due to other causes beyond Inertia's control. Inertia shall use reasonable efforts to provide advanced notice in writing or electronically of any scheduled service disruption. INERTIA DOES NOT

WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES INERTIA MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION (6.1), THE SERVICES AND PROJECT CONFIGURATION ARE PROVIDED "AS IS" AND INERTIA DISCLAIMS ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

7. INDEMNITY

7.1 Inertia shall hold User harmless from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided Inertia is promptly notified of and all threats, claims, and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Inertia will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the service (i) not supplied by Inertia, (ii) made in whole or in part in accordance with User specifications, (iii) that are modified after delivery by Inertia, (iv) combined with other products, processes, or materials where the alleged infringement relates to such combination, (v) where User continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where User's use of the service is not strictly in accordance with this Agreement. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by Inertia to be infringing, Inertia may, at its option and expense (a) replace or modify the service to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (b) obtain for User a license to continue using the service, or © if neither of the foregoing is commercially practicable, terminate this Agreement and User's rights hereunder and provide User a refund of any prepaid, unused fees for the service.

8. LIMITATION OF LIABILITY

8.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, INERTIA AND ITS SUPPLIERS (INCLUDING,

BUT NOT LIMITED TO, ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS, AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED TO THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER THEORY: (i) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES, OR TECHNOLOGY, OR LOSS OF BUSINESS; (ii) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; (iii) FOR ANY MATTER BEYOND INERTIA'S REASONABLE CONTROL; OR (iv) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO INERTIA FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT INERTIA HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9. MISCELLANEOUS

9.1 If any portion or provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect as is enforceable. This Agreement is not assignable, transferable or sublicensable by User except with Inertia's prior written consent. Inertia may transfer and assign any of its rights and obligations under this Agreement without consent. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understanding relating to the subject matter of this Agreement, and all waivers and modifications must be in writing, signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this agreement and User does not have any authority of any kind to bind Inertia in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if

transmitted electronically; the day after it is sent, if sent by overnight delivery by a recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement shall be governed by the laws of the State of California without regard to its conflict of laws provisions.

Exhibits

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EXHIBIT A

Statement of Services

1. Project Setup

Project Configuration and Services Overview - Provided by Inertia to Customer

- 1.1 Define and develop custom project requirements (one-time setup) including:
- Project Setup
 - Participating Company Setup
 - User Setup
 - Jurisdictional requirement setup
 - Company Relationships setup
 - Custom Workflows setup
 - Customer drawing import and setup
- 1.2 Interactive graphics setup using Customer CAD and BIM files
- Setup following imports will be delivered to Licensee for preview and approval before work proceeds for each trade included.
 - Customer will provide access to latest approved contract drawings and CAD models for use in Inertia's services, as well as collaborative meetings with related parties such as the GC team and Inspection team.
 - All parties will review and confirm proper setup
 - 3D models (of any format) require one setup and one review and confirmation coordinated with GC leadership per level, per system to ensure correct customization and accuracy.
- 1.2.1 Two-Dimensional Interactive Drawings
- Import and setup of interactive graphics for up to thirty-five Main View Sheets.
 - Up to four subview sheets per Main View Sheets.
 - Up to 140 total sheets on initial setup.
- 1.3 Changes Modifications
- Changes and modifications to the project after initial setup are covered in Exhibit D.

2. Recurring Services

Ongoing and recurring services overview, including updates, maintenance, and support - provided by Inertia to Customer and User. May vary by project based on contract.

2.1 Modules and Tools

Inspection Module	RFI/Inquiry Module
Observation Log	Daily Report Tool
Submittals Module	DDNC Issue Tracking
Document and File Management	Punch List Module
Commissioning Module	2D Interactive Maps
Change Log	Additional CM Tools

3. **Project Closeout**

Project close out services and end of services - provided by Inertia to Customer.

3.1 Project Documents

- Digital binder of all project documents contained within Inertia
- Indexed and sorted sequentially by document ID
- Searchable, viewable, and printable from most internet browsers and PDF reader software

Exhibit B

Service Level Terms

The services shall be available 99.9%, measured monthly, excluding holidays and weekends and a weekly six hour maintenance period (scheduling may vary). If Customer requests maintenance during these hours, any uptime or downtime calculation will exclude periods affected by such maintenance. Further, any downtime resulting from outages of third party connections, connectivity or utilities or other reasons beyond Inertia's control will also be excluded from any such calculation. Customer's sole and exclusive remedy, and Inertia's entire liability, in connection with Service availability shall be that for each period of downtime lasting longer than one continuous hour, Inertia will credit Customer 5% of Service fees for each period of 30 or more continuous consecutive minutes of downtime; provided that no more than one such credit will accrue per day. Downtime shall begin to accrue as soon as Customer (with notice to Inertia) recognizes that downtime is taking place, and continues until the availability of the Services is restored. In order to receive downtime credit, Customer must notify Inertia in writing within twenty-four hours from the time of downtime, and failure to provide such notice will forfeit the right to receive downtime credit. Such credits may not be redeemed for cash and shall not be cumulative beyond a total of credits for one week of Service Fees in any one calendar month in any event. Inertia will only apply a credit to the month in which the incident occurred. Inertia's blocking of data communications or other Service in accordance with its policies shall not be deemed to be a failure of Inertia to provide adequate service levels under this Agreement.

Exhibit C

Support Terms

Inertia will provide Technical Support to Customer/User via the in-application support ticket system on weekdays during the hours of 9:00 am through 5:00 pm Pacific time, with the exclusion of Federal Holidays (" Support Hours "), or as otherwise specified in the contract. Customer/User may initiate a helpdesk ticket during Support Hours by filling a support ticket within the Project Inertia application by clicking the 'Support' link in the upper left corner of the application. Support is also available by contacting us via phone at 888-999-9796 x 100 or emailing support@projectinertia.com - additional fees may apply. Inertia will use commercially reasonable efforts to respond to all Helpdesk tickets within one business day.

Exhibit D

Major and Minor Modifications

Inertia provides ongoing support to Customer to update two-dimensional location identifiers and interactive graphics in order to reflect Minor Changes to Customer drawings and Customer CAD models (with approved change orders).

Major Modifications are modifications that require re-designation/re-identification of more than eighteen percent (18%) of the individual location identifiers within any Main View Sheet. Major Modifications after initial Project Setup and Configuration are not included in Service Terms.

In the event of Major Modifications requiring re-designation/reidentification of more than eighteen percent (18%) of the individual location identifiers, Inertia will make necessary changes at the rate of five thousand dollars (\$5,000) per Main View Sheet.

In the Event of Major Modifications requiring re-designation/re-identification of more than forty percent (40%) of the individual location identifiers within any Main View Sheet, Inertia will make the necessary changes at the rate of seven thousand dollars (\$7,000) per Main View Sheet.