



CUSTOMER AGREEMENT

This Customer Agreement (this "Agreement") is dated entered as of September 4th, 2018, by and between Power Leasing Systems, Inc., a Colorado corporation ("Power Pro"), and The Hayworth Apartments ("Customer").

Power Pro has developed certain proprietary technology and intellectual property (including, without limitation, hardware and software systems related thereto) (collectively the "Platform") through which to deliver certain Services (as defined in Section 1 below), and Customer desires to subscribe to the Services (which include access and use of the Platform) on the terms and conditions set forth herein.

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

1. Services. Subject to the terms and conditions of this Agreement, Customer hereby engages Power Pro to provide those services set forth on Exhibit A attached hereto (collectively the "Services") for the apartment community listed on Exhibit B attached hereto (the "Community").
2. Configuration. Customer shall deliver to Power Pro all content, text, artwork, pictures, files, programs, sound, graphics, video, data and other materials related to the Community (collectively the "Initial Content") that Customer desires to be configured into the Platform. The Initial Content shall be delivered in a format acceptable to Power Pro. Customer represents and warrants to Power Pro that it is the sole owner of the Initial Content (or any New Content [as defined on Exhibit A attached hereto]) and that Customer has all right, power and authority to use the same in the Platform and to permit Power Pro to use the same in the Platform. As used herein, the Initial Content and the New Content may be referred to collectively as the "Content."
3. Term. The initial term of this Agreement (the "Initial Term") shall commence upon mutual execution and delivery of this Agreement and will continue until the date that is 12 months after the date that the Initial Content has been uploaded to the Platform and the Platform is available for Customer's use (the "Launch Date"), unless terminated earlier as expressly set forth herein. Thereafter, this Agreement will be automatically extended on a month-to-month basis unless either party gives the other party written notice at least 30 days prior to the end of the applicable term that it elects to terminate this Agreement or unless otherwise expressly provided for in this Agreement. Notwithstanding anything to the contrary contained in this Agreement, subject to the terms and conditions set forth herein, this Agreement may be terminated by Customer upon 30 days prior written notice to Power Pro if and only if (a) the Community for which the Services is provided is sold and written notice of termination of this Agreement is given to Power Pro within 30 days after the date of such sale; or (b) if the property management company for Customer ceases to be **Morgan Group Property Management, LLC** (or an affiliate thereof) and written notice of termination of this Agreement is given to Power Pro within 30 days after the date of such property management change. Upon termination or expiration of this Agreement, (i) Customer's use of the Platform and Power Pro's obligation to provide the Services shall terminate; (ii) Power Pro shall remove all copies of the Content from the Platform and any servers within its control; (iii) Customer will promptly pay Power Pro all amounts owed under this Agreement without regard to whether any invoices had or had not been issued and (iv) if such termination occurs during the Initial Term, Customer will

promptly reimburse Power Pro for the value of any Concessions as set forth on Exhibit C attached hereto.

4. Fees. Customer shall pay Power Pro the various fees (collectively "Fees") set forth on Exhibit C attached hereto, which such Fees shall commence on the Launch Date and be payable within 30 days after receipt of an invoice therefor unless indicated otherwise on Exhibit C attached hereto. Invoices for Fees shall be emailed to Customer at its email address set forth below its signature block. If any payment required by this Agreement is not made within five days after such payment is due, (a) a late charge of 18% per annum or the maximum rate allowed by applicable law, whichever is less, will accrue from the date on which payment was due until the date on which payment is paid in full and received by Power Pro, and (b) a late charge of 10% of the past due amount, but in no event less than \$50.00 (the "Late Charge"), will accrue. Customer agrees that, in the event of any such late payment by Customer, the damages resulting to Power Pro will be difficult to ascertain precisely, and that the Late Charge constitutes a reasonable and good faith estimate by the parties of the extent of such damages.

5. Privacy; Use of Non-Identifiable Information.

(a) By entering into this Agreement or using the Platform, or both, Customer agrees to comply with all applicable laws including, without limitation, privacy laws and statements that are or may be required in using the Platform or as a result of user generated content ("UGC") obtained by Customer's use of the Platform and receipt of the Services.

(b) Notwithstanding anything to the contrary contained in this Agreement, Power Pro shall have a right to use in any manner whatsoever, at no additional cost to Power Pro, any portion of the UGC that is not otherwise uniquely identifiable to a specific person or Community (the "Non-Identifiable Information"). Power Pro's right to use the Non-Identifiable Information shall survive the expiration or termination of this Agreement.

6. Warranty; Disclaimer.

(a) Power Pro warrants that any Services provided to Customer under this Agreement will be performed in accordance with the Services set forth on Exhibit A attached hereto. Power Pro shall, as its sole obligation and Customer's sole and exclusive remedy for any breach of the foregoing warranty, re-perform the Services which gave rise to the breach or, at Power Pro's sole option, refund the Fees paid by Customer for the Services which gave rise to the breach; provided, however, that Customer notifies Power Pro in writing of the breach within 10 days following performance of such defective Services and specifies the breach in reasonable detail.

(b) EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, POWERPRO EXPRESSLY DISCLAIMS ALL WARRANTIES OR CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARISING FROM OR RELATED TO THIS AGREEMENT, THE SERVICES AND THE PLATFORM.

7. Ownership; Confidentiality.

(a) Power Pro owns all right, title and interest in and to the Platform, including, without limitation, any and all intellectual property, proprietary rights, copyrights, patents, trade secrets, rights of reproduction, rights of publicity, moral rights and contract rights (and the right to secure registrations, renewals, reissues, and extensions thereof) in any country or jurisdiction of the world (collectively

“Intellectual Property Rights”). Except for the Services expressly set forth in this Agreement and then only during the term of this Agreement, none of Power Pro’s Intellectual Property Rights may be copied, reproduced, distributed, republished, downloaded, displayed, reverse engineered, posted or transmitted by Customer in any form without the prior written permission of Power Pro. Customer acknowledges and agrees that (i) it does not acquire any rights, express or implied, in or to the Platform, except as specifically set forth in this Agreement and then only during the term of this Agreement; (ii) any configuration or deployment of the Platform shall not affect or diminish Power Pro’s rights, title and interest in and to the Platform or the Intellectual Property Rights; and (iii) if Customer suggests any new features, functionality or performance for the Services or the Platform, or both, that Power Pro subsequently incorporates into the Services or the Platform, or both, Power Pro will retain ownership of the same and the same shall be deemed Intellectual Property Rights owned by Power Pro. All rights in and to the Platform not expressly granted to Customer in this Agreement are reserved by Power Pro.

(b) Except to the extent such disclosure is required by applicable laws, Customer shall not otherwise disclose, and shall ensure that its Agents do not disclose, the Fees and other terms of this Agreement, or any other information received related to the Platform or Intellectual Property Rights, to any person or entity. The obligations imposed in this section shall not apply to any information that: (i) is already known to, or is independently developed by Customer; or (ii) is or becomes publicly available from Power Pro, or through no fault of Customer. The obligations of Customer under this section will survive termination or expiration of this Agreement.

8. Indemnity; Limitation on Liability.

(a) Power Pro will defend, at its own expense, any claim, suit or action against Customer brought by a third party to the extent that such claim, suit or action is based solely upon an allegation that the Platform infringes any patents or copyrights or misappropriates any trade secrets of such third party (**“Customer Claim”**), and Power Pro will indemnify and hold Customer harmless from and against all losses, damages, liabilities, costs, and expenses (including reasonable attorneys’ fees and costs) incurred by Customer specifically attributable to such Customer Claim or those costs and damages agreed to in a monetary settlement of such Customer Claim. The foregoing obligations are conditioned on Customer: (i) promptly notifying Power Pro in writing of such Customer Claim; (ii) giving Power Pro sole control of the defense thereof and any related settlement negotiations; and (iii) cooperating and, at Power Pro’s request and expense, assisting in such defense. Notwithstanding the foregoing, Power Pro will have no obligation under this section or otherwise with respect to any Customer Claim or other infringement claim or action based upon: (1) any use of the Platform not in accordance with this Agreement; (2) any use of the Platform in combination with products, equipment, software, or data not supplied by Power Pro if such infringement would have been avoided without the combination with such other products, equipment, software or data; (3) any modification of the Platform by any person other than Power Pro or its authorized agents or subcontractors or (4) any negligence or intentional misconduct of Customer. If use of the Platform is, or in Power Pro’s sole opinion is likely to become, enjoined, Power Pro may at its discretion: (A) modify the Platform so that it is non-infringing; (B) replace that portion of the Platform that infringes or allegedly infringes with non-infringing components that is functionally equivalent; (C) obtain a license that will enable Customer to continue the use of the Platform and the Services as provided hereunder; or (D) terminate this Agreement. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, THIS SECTION STATES POWERPRO’S ENTIRE LIABILITY AND CUSTOMER’S SOLE AND EXCLUSIVE REMEDY FOR ANY CUSTOMER CLAIM OR ANY OTHER INFRINGEMENT CLAIMS OR ACTIONS.

(b) Customer shall defend, indemnify, save and hold harmless, Power Pro and its officers, directors, employees, managers, agents, contractors, affiliates and subsidiaries (collectively the **“Indemnitee”**), from against any and all damages, losses, liabilities, actions, proceedings (whether legal

or administrative), demands, claims and expenses (including, but not limited to, reasonable attorneys' fees and costs) threatened, asserted or filed against the Indemnatee, arising out of or related to: (i) any Content or UGC provided or collected by Customer; (ii) any failure of Customer to comply with all applicable laws, including, without limitation, privacy notices or statements; (iii) any improper use of the Platform or the Intellectual Property Rights by Customer, its agents, employees or contractors; (iv) any breach of the representations or warranties made by Customer under this Agreement; and (v) any failure of Customer, its Agents, employees or contractors to comply with the terms of this Agreement. The Indemnatee shall be entitled to actively participate in the defense, compromise, settlement, resolution or other disposition of any such claim or proceeding by counsel of the Indemnatee's own choosing and at Customer's expense. Customer may not settle any such claim or proceeding without the prior written consent of the Indemnatee. The indemnification obligations set forth in this section shall survive the expiration or earlier termination of this Agreement. Notwithstanding the foregoing, Customer will have no obligation under this section or otherwise with respect to any claim to the extent based upon any gross negligence or intentional misconduct of Power Pro.

(c) NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, IN NO EVENT SHALL POWERPRO BE LIABLE TO CUSTOMER FOR ANY SPECIAL, PUNITIVE, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (HOWEVER ARISING, INCLUDING NEGLIGENCE), INCLUDING WITHOUT LIMITATION, FRUSTRATION OF ECONOMIC OR BUSINESS EXPECTATIONS, LOSS OF PROFITS, INTERRUPTION OF COMMUNICATIONS, LOSS OF DATA LOSS OF CAPITAL, COST OF SUBSTITUTE PRODUCT(S), FACILITIES OR SERVICES OR DOWN TIME COST, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, POWERPRO'S INDEMNIFICATION OBLIGATIONS HEREUNDER AND POWERPRO'S AGGREGATE LIABILITY UNDER THIS AGREEMENT, WILL NOT EXCEED DAMAGES IN EXCESS OF THE AMOUNTS RECEIVED BY POWERPRO DURING THE TERM OF THIS AGREEMENT.

9. Default. In the event either party defaults in the performance of any of the material terms of this Agreement, the non-defaulting party shall give the defaulting party written notice specifying the nature of such default and identifying the specific provision in this Agreement which gives rise to the default. The defaulting party shall have five days to either: (i) notify the non-defaulting party that no default occurred; (ii) cure the default, or (iii) if such default is incapable of cure within such 10 day period, commence curing the default within such five day period and diligently pursue such cure to completion. Upon any event of default by Customer hereunder, in addition to any other rights or remedies of Power Pro set forth herein, at law or in equity, Power Pro may suspend the performance of the Services or terminate this Agreement, or both.

10. General Provisions.

(a) This Agreement will be governed and construed in accordance with the laws of the State of Colorado without reference to its conflict of laws principles. Both parties submit to the personal jurisdiction of the State of Colorado and further agree that any cause of action arising under this agreement may be brought in a court in Arapahoe County, Colorado.

(b) In the event of any litigation or arbitration between the parties relating to this Agreement (including pretrial, trial, appellate, administrative, bankruptcy or insolvency proceedings), the prevailing party shall be awarded, as part of the judgment or settlement, all attorneys' fees, costs and expenses incurred in connection with such litigation, except as may be limited by applicable law. In any situation where a default by Customer occurs and is resolved without litigation, Customer shall also pay

all of PowerPro's costs and attorneys' fees relating thereto. In the interest of obtaining a speedier and less costly hearing of any dispute, the parties hereby each irrevocably waive the right to trial by jury.

(c) If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The parties agree to replace any invalid provision with a valid provision which most closely approximates the intent and economic effect of the invalid provision. The waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

(d) All notices, demands, consents or approvals required or permitted under this Agreement will be in writing and will be deemed effective (i) when personally delivered, (ii) when sent by facsimile with receipt acknowledged, (iii) one business day after being deposited with any nationally recognized overnight carrier which routinely issues receipts, addressed to the party at the address stated below, or (iv) three business days after being placed in the mail by certified mail, return receipt requested, postage prepaid. All such notices shall be addressed to the party at the address set forth in the first paragraph of this Agreement. Either party may add additional addresses or change its address for purposes of receipt of any such communication by giving 10 days' prior written notice of such change to the other party in the manner prescribed in this section.

(e) Power Pro may, at its sole discretion, delegate the performance of all or any portion of the Services provided hereunder to any of its affiliates or to a subcontractor of Power Pro's choosing. Power Pro shall remain responsible for the performance of all Services delegated to its subcontractors.

(f) The party executing this Agreement on behalf of Customer represents to Power Pro that such party is authorized to do so by requisite action of the party to this Agreement.

(g) This Agreement does not grant Contractor an exclusive privilege or right to supply the Services to Company.

(h) This Agreement may be signed and delivered by facsimile or electronically and the same facsimile or "pdf" signatures shall constitute original signatures hereof with all force and effect of law. This Agreement may be executed in counterparts, each of which will constitute an original and all of which together shall constitute one and the same document.

(i) This Agreement, including the exhibits attached hereto, 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. It may be changed only by a writing signed by both parties. Neither party is relying upon any warranties, representations, assurances or inducements not otherwise expressly set forth herein. In the event of a conflict between the terms of this Agreement and any exhibit, the terms of the exhibit shall control.

Each of the parties hereto has executed this Agreement as of the date first set forth above.

Customer:	Power Pro:
	Power Leasing Systems, Inc., a Colorado corporation
By: <u>Shelley Russell</u>	DocuSigned by: <u>Karen L Gladney</u>
Name: <u>Shelley Russell</u>	Name: <u>Karen Gladney</u>
Title: <u>Regional Manager</u>	Title: <u>Principal</u>
Email: <u>shelleyr@magangray.com</u>	Email: <u>karen@powerproleasing.com</u>
Address: <u>1414 Wood Hollow Dr.</u> <u>HOUSTON TX 77057</u>	Address: <u>5650 Greenwood Plaza Blvd, Suite 220,</u> <u>Greenwood Village, CO 80111</u>

EXHIBIT A
Services

As used in this Agreement, “**Services**” shall mean the following to be provided by Power Pro to Customer:

(i) Access and use of the Platform for the Community. Access and use of the Platform shall be through means of iPads that Customer provides to its leasing team. Power Pro shall, at Power Pro’s sole cost and expense, (1) update to the Platform, as and when necessary in Power Pro’s sole discretion, to keep the same functioning in a proper manner and consistent with software applications; and (2) provide customer support for general questions or technical concerns, which such customer support shall be available between 7:00 a.m. to 7:00 p.m. (Denver, Colorado time) on Monday through Saturday, except for legal holidays, including, without limitation, New Year’s Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

(ii) Configuration of the Initial Content for use in the Platform to be used by Customer. After the Initial Content has been configured for use in the Platform, any update, modification, revision or alteration to the Content (“**New Content**”) shall be performed by Power Pro at the written request of Customer, but not more than once per quarter. Any further New Content shall be installed upon the mutual agreement of the parties.

(iii) Integration of the Platform with Customer’s property management software; provided, however, Customer shall promptly deliver to Power Pro, at no additional cost to Power Pro, all applications, approvals and codes necessary for Power Pro to gain access to Customer’s property management software.

(iv) One introductory webinar training session on use of the Platform shall be provided to Customer’s leasing team at the Community or such other place as shall be mutually agreed upon by the parties. The introductory webinar training session lasts approximately two hours. Within 45 days after the introductory webinar, a follow-up webinar training session on use of the Platform shall be provided to Customer’s leasing at the Community or such other place as shall be mutually agreed upon by the parties. The follow-up webinar training session lasts approximately one hour. Any further training sessions shall be performed by Power Pro upon the mutual agreement of the parties.

EXHIBIT B

Community

Community Name	Address	Number of Units	Invoicing Email
The Hayworth Apartments	1414 Wood Hollow Drive Houston, TX 77057	245	

EXHIBIT C

Fees

Initial Set-Up Fee: \$575 set up fee (the “**Set-Up Fee**”). Notwithstanding anything to the contrary contained in the Agreement, the Set-Up Fee shall be due and payable concurrent with the execution of this Agreement.

Monthly Fees for Services: As of the Actual Launch Date, \$1.00 per unit per month and \$100 per month technology fee billed in accordance with Section 4 of the Agreement.