



A Service Disabled Veteran Business Enterprise
MEMBERS FINRA, MSRB & SIPC



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1. Description of Agreement

This Agreement between County of Tulare and Mischler Financial Group (also referred to as MFG herein) governs the use of the MAXQ Analytics online service (the “Service”). This Service permits designated MFG customer’s access to a library of models using a personal computer or mobile device. “We,” “us” and “our” refer to Mischler Financial Group.

2. MAXQ Online Services

The MAXQ Analytics online Service contains a library of customer specific models that are assigned by a designated MFG representative. Model assignment will be based on need as determined by us and may not include all available models.

The Service library of models can change at any time without prior notice and there is no guarantee, written or explicit, that assigned models will be available to County of Tulare.

3. No Offer

The information contained on the Service site is for information purposes only. It is not and shall not be construed as an offer to sell or a solicitation of an offer to buy securities, commodities or other instruments, nor to enter into any transactions.

4. Valuation

The valuations contained in the Service models are based upon valuation models and assumptions (which are subject to change without notice) and publicly available information.

No representation is made as to the reasonableness of the assumptions or the accuracy or completeness of the models or publicly available information. No representation is made that such values could actually be achieved upon disposal of the relevant security or that such values are in any way indicative of future performance. The values do not include adjustments for transaction and hedging costs, liquidity or credit considerations or other significant factors external to our valuation models, which may change the actual values materially. The valuations are indicative and are subject to change, and are provided for information purposes only and do not constitute an offer to buy or sell or a solicitation of an offer to buy or sell any of the Securities. MFG and/or its affiliates may, from time to time, have positions in, and may, as principal or agent, buy or sell the Securities. MFG shall not be liable to any person on any basis for any losses or expenses arising directly or indirectly out of the use of or reliance on any of the valuations or information set out herein. This information is for County of Tulare’s private use only and may not be reproduced, distributed or published (in the case of the information contained herein, insofar as reference is made to the fact that MFG has produced the information) without the prior written consent of MFG. In particular, it may not without such consent be passed on to the trustees, custodians or other agents of or investors in any funds managed by County of Tulare.

5. Accuracy of Information

The information contained on the Service site has been taken from trade and statistical services and other sources that MFG utilizes. We do not represent that such information is accurate or complete and it should not be relied upon as such. The information contained on the Service site is not intended to predict actual results and no assurances are given with respect thereto. Any opinions expressed on the Service site reflect our judgment at the date of issue of the relevant report and are subject to change without notice. Any pricing is indicative and is subject to change, and does not, and is not intended to, constitute either an offer to buy or sell nor a representation that a purchase or sale can be effected at that price. Past performance is not indicative of future results.

6. Risks

Transactions and securities of the type described in this Service site may involve a high degree of risk, and the value of such transactions and securities may be highly volatile. Such risks may include, without limitation, risk of adverse or unanticipated market developments, risk of counterparty or issuer default and risk of illiquidity. In certain transactions investors may lose their entire investment or incur an unlimited loss. This brief statement does not disclose all the risks and other significant aspects in connection with transactions and securities of the type described in this site, and County of Tulare should ensure that County of Tulare fully understands the terms of any transaction/security, including the relevant risk factors and any legal, tax and accounting considerations applicable to them, prior to transacting/investing.

7. Limitation of Liability

Except as specifically set forth herein or where the law requires a different standard, we shall not be responsible for any loss, damage or injury or for any direct, indirect, special, incidental, exemplary or consequential damages, including lost profits, loss of data, files, profit or goodwill or the costs of procurement of substitute goods or services, arising from or related to the Service, the inability to use the Service, or otherwise in connection with this Agreement, even if advised of the possibility of such damages.

8. Disclaimer of Warranties

To the fullest extent permitted by law, we make no representations or warranties of any kind in respect of the Service, either express or implied, statutory or otherwise, including but not limited to implied warranties of merchantability or fitness for a particular purpose, and we hereby disclaim any such representations, warranties and conditions of any kind. We do not represent or warrant that the Service will be uninterrupted, timely, secure or error free, that defects will never arise or will be corrected, or that our website that makes the Service available is free of viruses or other harmful components.

9. Service Unavailability

Access to the Service may be unavailable with or without notice at certain times for the following reasons:

- a) **Scheduled Maintenance:** Periods when systems require maintenance or upgrades. All scheduled maintenance will be attempted at off-market hours.
- b) **Unscheduled Maintenance:** The Service may be unavailable when unforeseen maintenance is necessary.
- c) **Service Outages:** Unforeseen major events, such as earthquakes, fires, floods, computer failures, interruptions in internet service or electrical outages.
- d) **Service is subject to system capacity and technical limitations.** If Service encounters such limitations, such as an excessive number of Service users logged in, the Service may not have the capability to display County of Tulare's information correctly

Although we undertake reasonable efforts to ensure the availability of the Service, we will not be liable in any way for its unavailability or for any damages that may result from such unavailability.

10. Computer Requirements

The Service requires County of Tulare to have certain computer capabilities, which we may change from time to time without prior notice to County of Tulare. Please contact an authorized MFG representative for an updated list of requirements.

11. Authorized User Access

Each user will be assigned a unique user ID and password that grants a primary user access to the designated Service model library. Each account will be granted one ID and password and can only be shared with direct colleagues and employees of the primary user's institution if they appear as an authorized user in the User Agreement. County of Tulare acknowledges that maintaining confidentiality of the user ID and password is County of Tulare's responsibility. County of Tulare agrees to maintain County of Tulare's account information and online user ID and password in strict confidence in order to prevent unauthorized access to County of Tulare's account and the Service. Any access provided to unauthorized users can result in termination of the Service.

12. User Authentication and Security Procedures

MFG reserves the right to deny access to the Service without notice to County of Tulare if we believe that there is risk of unauthorized, illegal, or fraudulent activity. County of Tulare agrees that we may, in our sole discretion, require verification of user identity, in a manner satisfactory to us, at any time before allowing access or login to the Service.

13. Changes to the Service of this Agreement

We may amend (add to, delete or change) the terms of this Agreement upon mutual written agreement by both parties. We will send proposed amendments by email and County of Tulare agrees to review any changes to this Agreement promptly upon receipt of our notice. County of Tulare's acceptance of proposed amendments will allow for the continued use of the Service after the effective date of any changes. If both parties do not agree upon proposed amendments, the Service can be terminated in accordance with Termination of Service clause.

14. Termination of Service

We may suspend or terminate County of Tulare's Service at any time, with or without cause and without affecting County of Tulare's outstanding obligations under this Agreement. We may immediately take this action if: County of Tulare breaches this or any other agreement with us; we have reason to believe that there has been or may be unauthorized or illegal use of the Service; or MFG no longer deems the Service is appropriate.

15. Copyright

The content contained in the Service site including, without limitation, all design, text and images are licensed by MAXQ, MFG and/or its licensors and are protected by copyright and other intellectual property laws. This website is for County of Tulare's own personal use. County of Tulare may not sell, copy, publish, distribute, transfer, modify, display, reproduce and/or create any derivative works from the information or software on this Service site except for County of Tulare's own non-commercial use. County of Tulare also may not redeliver any of the pages, text, images, or content of this site using "framing" or similar technology.

The information and software on this Service site may not be taken out of context or presented in an unfair, misleading or discriminating manner. County of Tulare agrees not to remove any copyright notice or other notice signifying Mischler Financial Group's, MAXQ's, or any third party's intellectual property rights. Except as expressly provided herein, nothing contained on the Service site shall be deemed or construed to confer any license or right, expressly, by implication, estoppel or otherwise, under any of Mischler Financial Group's or MAXQ's intellectual property rights.

16. County of Tulare Addition

a) Without Cause: COUNTY may terminate this Agreement without cause by giving thirty (30) days' prior written notice to CONTRACTOR of its intention to terminate under this provision, specifying the date of termination. COUNTY will pay to CONTRACTOR the compensation earned for work satisfactorily performed and not previously paid for to the date of termination. COUNTY will not pay lost anticipated profits or other economic loss. The payment of any compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of all plans, specifications and estimates, and other documents prepared by CONTRACTOR in accordance with this Agreement. COUNTY will not impose sanctions on CONTRACTOR under these circumstances.

(b) With Cause: Either Party may terminate this Agreement immediately, by written notice to the other Party, should the other Party:

- (1) Be adjudged a bankrupt, or
- (2) Become insolvent or have a receiver appointed, or
- (3) Make a general assignment for the benefit of creditors, or
- (4) Suffer any judgment that remains unsatisfied for 30 days, and that would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- (5) Materially breach this Agreement.

In addition, COUNTY may terminate this Agreement based on:

- (6) Material misrepresentation, either by CONTRACTOR or anyone acting on CONTRACTOR'S behalf, as to any matter related in any way to COUNTY'S retention of CONTRACTOR, or
- (7) Other misconduct or circumstances that, in the sole discretion of COUNTY, either impairs the ability of CONTRACTOR to competently provide the services under this Agreement, or exposes COUNTY to an unreasonable risk of liability.

For any of the occurrences except item (5) above, termination may be effected upon written notice by the terminating Party specifying the date of the termination. If CONTRACTOR fails to perform according to the terms and conditions of this Agreement, then COUNTY may, in addition to any other remedy it may have, issue a declaration of default after 10 days written notice to CONTRACTOR.

Upon a material breach, the Agreement may be terminated after the failure of the defaulting Party to remedy the breach to the satisfaction of the non-defaulting Party within 5 days of written notice specifying the breach. If the breach is not remedied within that 5-day period, then the non-defaulting Party may terminate this Agreement on further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within a 5-day period, then the defaulting Party may submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting Party consents to that proposal in writing, which consent may not be unreasonably withheld, then the defaulting Party must immediately embark on its plan to cure the default or breach. If the default or breach is not cured within the time agreed, then the non-defaulting Party may terminate this Agreement upon written notice specifying the date of termination.

COUNTY will pay to CONTRACTOR the compensation earned for work satisfactorily performed and not previously paid for to the date of termination. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CONTRACTOR of all plans, specifications and estimates, and other documents prepared by CONTRACTOR by the date of termination in accordance with this Agreement. COUNTY will not pay lost anticipated profits or other economic loss, nor will COUNTY pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If COUNTY terminates this Agreement for

cause and the expense of finishing CONTRACTOR'S scope of work exceeds the unpaid balance of the Agreement, then CONTRACTOR must pay the difference to COUNTY. COUNTY may impose sanctions under these circumstances, which may include possible rejection of future proposals based on specific causes of CONTRACTOR'S non-performance.


(c) Effects of Termination: Expiration or termination of this Agreement will not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where COUNTY terminates CONTRACTOR'S services, that termination will not affect any rights of COUNTY to recover damages against CONTRACTOR.

**COUNTY OF TULARE
SERVICES AGREEMENT
Mischler Financial Group - MaxQ Qloud User Agreement**

THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

MISCHLER FINANCIAL GROUP

Date: 8/13/2018

By 

Print Name Doyle L. Holmes

Title President

Date: 8/13/2018

By 

Print Name Jason Klinghoffer, CFA

Title Director, Debt Capital Markets

[Pursuant to Corporations Code section 313, County policy requires that contracts with a **Corporation** be signed by both (1) the chairman of the Board of Directors, the president or any vice-president (or another officer having general, operational responsibilities), and (2) the secretary, any assistant secretary, the chief financial officer, or any assistant treasurer (or another officer having recordkeeping or financial responsibilities), unless the contract is accompanied by a certified copy of a resolution of the corporation's Board of Directors authorizing the execution of the contract. Similarly, pursuant to California Corporations Code section 17703.01, County policy requires that contracts with a **Limited Liability Company** be signed by at least two managers, unless the contract is accompanied by a certified copy of the articles of organization stating that the LLC is managed by only one manager.]

COUNTY OF TULARE

Date: _____

By _____
Chairman, Board of Supervisors


ATTEST: MICHAEL C. SPATA
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

Date: _____

By _____
Deputy Clerk

Approved as to Form
County Counsel

Date: _____

By  August 15, 2018
Deputy
Matter # 20181176