

MARKETING AGREEMENT

This MARKETING AGREEMENT ("Agreement") is entered into as of January 7, 2020 ("**Effective Date**"), by and between the City of Manhattan Beach, California ("**City**"), and Utility Service Partners Private Label Inc., a Delaware corporation, d/b/a SLWA Insurance Services ("**Company**"), herein collectively referred to singularly as "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, sewer and water line laterals between the mainlines and the connection on residential private property are owned by individual residential property owners residing in the City ("**Residential Property Owner**"); and

WHEREAS, City desires to offer Property Owners the opportunity, but not the obligation, to purchase a service plan and other similar products set forth in Exhibit A or as otherwise agreed in writing from time-to-time by the Parties (each, a "**Product**" and collectively, the "**Products**"); and

WHEREAS, Company, a subsidiary of HomeServe USA Corp., is the administrator of the National League of Cities Service Line Warranty Program and has agreed to make the Products available to Property Owners subject to the terms and conditions contained herein; and

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the Parties agree as follows:

1. **Purpose.** City hereby grants to Company the right to offer and market the Products to Residential Property Owners subject to the terms and conditions herein.
2. **City Obligations.** City hereby grants to Company a non-exclusive license ("**License**") to use City's name and logo on letterhead and marketing materials to be sent to Residential Property Owners from time to time, and to be used in advertising (including on the Company's website), all at Company's sole cost and expense and subject to City's prior review and approval, which will not be unreasonably conditioned, delayed, or withheld. City agrees that it will not extend a similar license to any competitor of Company during the Term and any Renewal Term of this Agreement.
3. **Term.** The term of this Agreement ("**Term**") shall be for three (3) years from the Effective Date. The Agreement will renew upon City Manager approval and mutual agreement of the parties, for additional one (1) year terms ("**Renewal Term**") unless one of the Parties gives the other written notice at least ninety (30) days prior to end of the Term or of a Renewal Term that the Party does not intend to renew this Agreement. In the event that Company is in material

breach of this Agreement, the City may terminate this Agreement thirty (30) days after giving written notice to Company of such breach, if said breach is not cured during said thirty (30) day period. Company will be permitted to complete any marketing initiative initiated or planned prior to termination of this Agreement after which time, neither Party will have any further obligations to the other and this Agreement will terminate.

4. **Consideration.** As consideration for such license, Company will pay to City a License Fee as set forth in Exhibit A ("**License Fee**") during the Term of this Agreement. The first payment shall be due by January 30th of the year following the conclusion of the first year of the Term. Succeeding License Fee payments shall be made on an annual basis throughout the Term, due and payable on January 30th of the succeeding year. City agrees to provide a completed Form W-9 to Company in order to facilitate proper payment of the License Fee. City will have the right, at its sole expense, to conduct an audit, upon reasonable notice and during normal business hours, of Company's books and records pertaining to any fees due under this Agreement while this Agreement is in effect and for one (1) year after any termination of this Agreement.

5. **Confidentiality.** Each party will treat all non-public, confidential and trade secret information received from the other party as confidential, and such party shall not disclose or use such information in a manner contrary to the purposes of this Agreement. Notwithstanding the foregoing, the City shall not be liable for any disclosure of confidential information that is required to be disclosed under any applicable public records act or under court order. City shall provide notice to Company prior to any such disclosure.

6. **Code Change.** The Parties understand that the pricing of the Products and compensation provided for in this Agreement are based upon the currently applicable City, municipal or similar codes. In the event Company discovers a code change, Company shall have the ability to reassess the pricing in this Agreement.

7. **Indemnification.** To the fullest extent permitted by law, Company hereby agrees to protect, indemnify, and hold the City, its elected officials, officers, employees and agents (collectively or individually, "**Indemnatee**") harmless from and against any and all third party claims, damages, losses, expenses, suits, actions, decrees, judgments, awards, reasonable attorneys' fees and court costs (individually or collectively, "**Claim**"), which an Indemnatee may suffer or which may be sought against or are recovered or obtainable from an Indemnatee, as a result of or arising out of any breach of this Agreement by the Company, or any negligent or fraudulent act or omission of the Company or its officers, employees, contractors, subcontractors, or agents in the performance of services under the Products provided that the applicable Indemnatee notifies Company of any such Claim within a time that does not prejudice the ability of Company to defend against such Claim. Company further agrees to and shall, upon demand of City, at Company's sole cost and expense, defend (with attorneys acceptable to the City), the Indemnatee against any claims, actions, or suits, arising or resulting from the performance of services under this agreement. Any Indemnatee hereunder may participate in its, his, or her own defense, but will be responsible for all costs incurred, including reasonable attorneys' fees, in connection

with such participation in such defense.

8. **Notice.** Any notice or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Company's and City's regular business hours, (c) sent by electronic mail (provided confirmation of receipt is provided by the receiving Party) or (d) three Business Days after deposit in the United States mail (i.e. USPS or FedEx), by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

To: City:
ATTN: Bruce Moe
City of Manhattan Beach
1400 Highland Avenue
Manhattan Beach, CA 90266
Email: bmoe@citymb.info
Phone: (310) 802-5053

To: Company:
ATTN: Chief Sales Officer
SLWA Insurance Services
4000 Town Center Boulevard, Suite 400
Canonsburg, PA 15317
Phone: (866) 974-4801

9. **Modifications or Amendments/Entire Agreement.** Any and all of the representations and obligations of the Parties are contained herein, and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party unless in writing signed by that Party.

10. **Assignment.** This Agreement and the License granted herein may not be assigned by Company other than to an affiliate or an acquirer of all or substantially all of its assets, without the prior written consent of the City.

11. **Counterparts/Electronic Delivery; No Third Party Beneficiary.** This Agreement may be executed in counterparts, all such counterparts will constitute the same contract and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter. Nothing expressed or implied in this Agreement is intended, or should be construed, to confer upon or give any person or entity not a party to this agreement any third-party beneficiary rights, interests, or remedies under or by reason of any term, provision, condition, undertaking, warranty, representation, or agreement contained in this Agreement.

12. **Choice of Law/Attorney Fees.** The governing law shall be the laws of the State of

California. In the event that at any time during the Term or any Renewal Term either Party institutes any action or proceeding against the other relating to the provisions of this Agreement or any default hereunder, then the unsuccessful Party shall be responsible for the reasonable expenses of such action including reasonable attorney's fees, incurred therein by the successful Party.

13. **Incorporation of Recitals and Exhibits.** The above Recitals and Exhibit A attached hereto are incorporated by this reference and expressly made part of this Agreement.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

City:

City of Manhattan Beach,
a California municipal corporation

Company:

SLWA Insurance Services
a Utility Service Partners Private Label Inc.,

By: _____

Name: Bruce Moe
Title: City Manager

By: _____

DocuSigned by:

Michael Backus

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Name: Michael Backus
Title: Chief Sales Officer

ATTEST:

By: _____

Name: Liza Tamura
Title: City Clerk

APPROVED AS TO FORM:

By: _____

Name: Quinn M. Barrow
Title: City Attorney

APPROVED AS TO FISCAL CONTENT:

By: _____

Name: Steve S. Charelian
Title: Finance Director

Exhibit A
NLC Service Line Warranty Program
City of Manhattan Beach
Term Sheet
January 7, 2020

I. Initial Term. Three years

II. License Fee. \$0.75 per Product for each month that a Product is in force for a Property Owner (and for which payment is received by Company), aggregated and paid annually, for:
City logo and name on letterhead, advertising, signature line, billing and marketing materials.

III. Products.

- a. External water service line plan (initially, \$6.75 per month)
- b. External sewer/septic line plan (initially, \$9.75 per month)
- c. Interior plumbing and drainage plan (initially, \$9.99 per month)

IV. Fees. Company may adjust the foregoing Product fees; provided, that any such adjustment shall not exceed \$.50 per month in any 12-month period, unless otherwise agreed by the Parties in writing.

V. Scope of Coverage.

- a. External water service line plan:
 - Property Owner responsibility: From the meter and/or curb box to the external wall of the home.
 - Covers well service lines if applicable.
- b. External sewer/septic line plan:
 - Property Owner responsibility: From the external wall of the home to the main.
 - Covers septic lines if applicable.
- c. Interior plumbing and drainage plan:
 - Water supply pipes and drainage pipes within the interior of the home.

VI. Marketing Campaigns. Company shall have the right to conduct up to three campaigns per year, comprised of up to six mailings and such other channels as may be mutually agreed. Initially, Company anticipates offering the Interior plumbing and drainage plan Product via in-bound channels only.