

# Client Application

Legal name of church/organization: \_\_\_\_\_  
(as registered with IRS)

DBA name: \_\_\_\_\_  
(as registered with IRS)

Federal EIN: \_\_\_\_\_

Mailing address: \_\_\_\_\_  
(as registered with IRS) (street) (city) (state) (zip)

Physical address: \_\_\_\_\_  
(if different from mailing address) (street) (city) (state) (zip)

UPS delivery address: \_\_\_\_\_  
(if different from mailing address) (street) (city) (state) (zip)

Church/Organization phone: \_\_\_\_\_

Denomination: \_\_\_\_\_

Brotherhood Mutual insured?  Yes  No (see next box) Interested in insurance?  Yes  No

How will employees receive their pay?  Paper  Direct Deposit

On the lines below, please separate staff members receiving pay by total number and pay frequency.

Number of Staff	Most Recent Pay Date	Pay Frequency (one pay group per line)			
		Weekly	Bi-Weekly	Twice/Monthly	Monthly
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Special notes/instructions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Authorization to Discuss Client Information

**Office Use Only**

Client Name: \_\_\_\_\_ Client Number: \_\_\_\_\_

### Executive Contact Information

Executive contact	
Executive title	
Executive phone	
Executive cell phone	
Executive fax	
Executive email	

### Primary Payroll Contact Information

Executive Contact is also the Primary Payroll Contact.

	Primary Payroll Contact	Back Up Contact
Contact		
Title		
Phone		
Cell phone		
Fax		
Email		
Notes		

Signature of authorized representative: \_\_\_\_\_

Printed name: \_\_\_\_\_

Today's date: \_\_\_\_\_

Daytime phone: \_\_\_\_\_

Email address: \_\_\_\_\_

Client acknowledges that the Executive, Primary, and Back Up Payroll Contact listed above are the only individuals with authority to discuss client payroll information with MinistryWorks. Client must notify MinistryWorks if any changes should be made to these contact individuals. To authorize additional individuals, please contact your MinistryWorks representative. The signer of this form must have authority to sign on behalf of the client.

## Payroll and Tax Processing Services Agreement

This Payroll and Tax Processing Services Agreement (“Agreement”), effective \_\_\_\_\_, (“Effective Date”) is entered into between \_\_\_\_\_ (“Client”), (a \_\_\_\_\_) and MinistryWorks, LLC (“MinistryWorks”), an Indiana limited liability company, (with each of MinistryWorks and Client sometimes also being referred to herein as a “Party” or together as the “Parties”). Client hereby authorizes MinistryWorks to perform the payroll and tax processing services (“Services”) detailed in this Agreement. The first processing date for Services will be determined by Client and MinistryWorks during the new client creation process assuming transfer of all required information from Client to MinistryWorks and allowing adequate time for new client set-up.

### 1. DESCRIPTION OF SERVICES.

- a. **Payroll Services.** MinistryWorks will perform the payroll processing services necessary in order to prepare Client’s employee paychecks; facilitate electronic full service direct deposits and stored value payroll cards; and create all necessary supporting reports, and payroll summaries.
- b. **Tax Return Generation and Filing Services.** MinistryWorks will prepare and file on Client’s behalf the quarterly and annual Social Security, Medicare, and federal, state, and local employment tax withholding reports, and returns required to be filed by employers. MinistryWorks will collect all federal, state, and local payroll taxes on behalf of, and from, Client and remit these taxes to the appropriate taxing authorities.
- c. **Limited Power of Attorney.** The Client agrees to appoint MinistryWorks as its attorney-in-fact to empower and authorize MinistryWorks to make tax deposits and sign and file employment tax returns on behalf of the Client with federal, state, and local authorities. All activities by MinistryWorks as attorney-in-fact shall be governed in accordance with this Agreement as well as all applicable federal and state laws. Client agrees to sign all requisite forms necessary for MinistryWorks to act as Client’s attorney-in-fact to carry out the above mentioned duties on Client’s behalf.
- d. **Third Party Remittance and Reporting.** MinistryWorks will facilitate the efficient movement of information and funds from Client to third parties for new hire reporting. This does not include the collection and payment of wage garnishments.
- e. **Workers’ Compensation Annual Audit Information Assistance.** If desired by Client, MinistryWorks will assist Client by compiling/providing the data necessary for Client to complete the annual workers’ compensation audit requirement for Client’s insurance carrier.
- f. **Limitations of MinistryWorks Services.** Client understands and agrees that through the performance of the Services detailed in this Agreement, MinistryWorks is not rendering legal, tax, accounting, or investment advice. MinistryWorks shall not be responsible for Client’s acts or omissions or those of any other person, including without limitation, any Federal Reserve Financial Institution, Automated Clearing House or transmission or communication facility, any Receiver or Receiving Depository Financial Institution (RDFI).

## 2. OBLIGATIONS OF CLIENT.

- a. New Client Requirements.** Client agrees to provide all necessary and reasonable information required by MinistryWorks as a part of the new client set-up procedure. Client agrees to complete all documents included in the new client packet and comply with all requests from MinistryWorks in order to efficiently facilitate the beginning of the payroll client relationship. Such documents include but are not limited to:
- i. bank account information;
  - ii. credit and debit authorization;
  - iii. tax authorization documents;
  - iv. limited power of attorney; and
  - v. any other documents required for MinistryWorks to perform the Services described in this Agreement. MinistryWorks is under no obligation to perform the Services described in this Agreement if Client has not completed and provided the required set-up documents and information.
- b. Required Payroll Information and Accuracy.** Client agrees to supply accurate and complete payroll information three (3) banking days prior to the payroll check date. Client acknowledges that failure to timely provide this information could result in additional fees and reimbursements due to late remittance of tax, garnishment, or wage payments. Client agrees it is ultimately responsible for all payments described in this Agreement and will be liable for any fees due to late or inaccurate information.
- c. Adequate Funds.** Client agrees that adequate funds will be available in Client's bank account at least three (3) banking days prior to the time MinistryWorks needs to debit the account for the purposes of providing any Services under this Agreement. Failure to maintain adequate funds in Client's bank account may result in the non-provision of Services contemplated by this Agreement and the imposition of fees to cover any penalties paid by MinistryWorks due to the lack of available funds. Client will also be responsible to reimburse MinistryWorks for all charges related to nonsufficient funds. If, at any time during the term of this Agreement, Client has failed to timely maintain adequate funds in Client's bank account, MinistryWorks shall have no obligation to perform any further Services under this Agreement.
- d. ACH Originator.** Client warrants that it is an authorized originator for Automated Clearing House ("ACH") purposes and agrees to assume the responsibilities of Originator under the Rules adopted from time to time by the National Automated Clearing House Association ("NACHA"). Client also acknowledges that entries may not be initiated in violation of the laws of the United States. It shall be the responsibility of Client that the organization of ACH transactions complies with United States law. This includes, but is not limited to, sanctions enforced by the Office of Foreign Assets Control ("OFAC"). It shall further be the responsibility of Client to obtain information regarding such OFAC enforced sanctions.

- e. EFT Authorization.** Client hereby authorizes MinistryWorks to process Electronic Fund Transfer (“EFT”) transactions to Client’s bank account for payment of all funds reasonably anticipated under this Agreement. These EFT transactions include both debits from Client’s account for payments as well as credits to Client’s accounts for any corrections that may be necessary. Client will be required to provide the bank account information to be used by MinistryWorks for all EFT transactions during the new client creation process.
- f. Designate Responsible Individual(s).** Client will designate specific individuals who will be responsible for communicating all payroll and tax information with MinistryWorks. In order to maintain accurate and secure information, MinistryWorks will only make changes to Client’s payroll and tax information, required passwords, and additional information pertinent to Client’s payroll relationship with MinistryWorks at the direction of these designated individuals. Any change in who is a designated responsible individual of Client must be communicated directly to MinistryWorks in writing.
- g. Review Reports.** Client agrees to thoroughly review all reports provided by MinistryWorks and notify MinistryWorks of any inaccuracies found within three (3) business days of receipt. MinistryWorks will assume the reports are accurate following this three (3) day window if MinistryWorks does not receive any communication from Client.
- h. Client Responsibility.** Client acknowledges that it, at all times, remains solely responsible for communicating accurate information, including changes to any pertinent information, and ensuring proper funds are available so that MinistryWorks can provide the Services described in this Agreement. Client further acknowledges that it is ultimately liable for any action or inaccuracy attributed to Client error. Client remains the employer of record for all employees who receive payroll services under this Agreement. It is Client’s responsibility to properly classify employees as well as comply with all state and federal labor laws. MinistryWorks is a provider of payroll services to businesses and organizations, and has agreed to provide those services specifically described herein to Client. Client acknowledges that it remains the employer of all of its employees, and that it retains all risks and responsibilities inherent in that role, including any employment decisions, which may affect its employees. As employer, Client remains ultimately responsible for the payment of all payroll and employment taxes. MinistryWorks acknowledges that it is responsible to perform the duties it has agreed specifically to perform and as described herein, and that it retains those risks and responsibilities inherent in those duties.
- i. Uncashed Payroll Checks.** When an employee payroll check is not cashed within ninety (90) days after the check was issued to the employee, MinistryWorks will return the uncashed funds to Client with instructions for Client to distribute the funds to the employee. Client will be responsible for complying with the unclaimed property laws, if any, of Client’s state regarding the uncashed payroll funds.
- j. Pass-Through Terms and Conditions, and Acceptable Use Policy.** Client understands that MinistryWorks uses software products provided by iSystems, LLC (“iSystems”) to provide the applications and related platforms the Services are provided on, and Client agrees to comply with the iSystems Pass-Through Terms and Conditions included in Exhibit A to this Agreement, as well as the iSystems Acceptable Use Policy included in Exhibit B to this Agreement.

### 3. PRIVACY AND CONFIDENTIALITY.

MinistryWorks will take precautions to protect certain Client Confidential Information from unauthorized use or disclosure. This protection will exist during the term of this Agreement and continue after its termination.

- a. Definition of “Client Confidential Information”.** For the purposes of this Agreement, “Client Confidential Information” includes a combination of the following personally identifiable information items relating to Client or Client’s employees: i) name; ii) Social Security number; iii) address; iv) contact information; v) bank account information; vi) wage information, and vii) date of birth.
- b. Authorized Disclosures.** Client acknowledges that MinistryWorks may disclose Client Confidential Information to “Related Parties,” in order to: i) perform its services and ii) offer additional services which might benefit Client. MinistryWorks may disclose Client Confidential Information to third party service providers or vendors who are under contract to assist MinistryWorks in processing tax or payroll services. MinistryWorks may also disclose certain Client Confidential Information (including, but not limited to, name, address and contact information) to “Related Parties” for purposes of offering ministry-focused products or services other than payroll services. For purposes of this Agreement, “Related Parties” means MinistryWorks’ corporate parents (American Church Group, LLC, and Brotherhood Mutual Insurance Company), together with MinistryWorks’ employees, affiliates, subsidiaries, agents, and contractors, and the employees and agents of its parents and subsidiaries.
- c. Exceptions.** These obligations regarding privacy and Client Confidential Information will not apply to: i) disclosures that are legally required of MinistryWorks; ii) information that is lawfully available to the public; iii) information that Client agrees may be disclosed; or iv) information that was not confidential at the time of disclosure.

### 4. PRICING AND FEE SCHEDULE.

Pricing for the Services described in this Agreement will be as described in Schedule (A). Schedule (A) may be updated by MinistryWorks upon written notice to Client to account for necessary and reasonable changes to the price of Services. Any such change to the price of Services shall be effective thirty (30) days after the date set forth in such notice.

### 5. USE OF CLIENT FUNDS.

Client acknowledges that MinistryWorks: i) may from time to time choose to invest funds collected from Client for purposes of providing Services under this Agreement, and ii) will be entitled keep potential earnings from these investments. Any losses incurred from investments will be the responsibility of MinistryWorks. If necessary, MinistryWorks will use its own funds to ensure proper payment is made to satisfy any payroll and tax obligations of the Client, which are subject to this Agreement. No state or federal agency assumes responsibility for the financial solvency of MinistryWorks.

## 6. TERM.

The term of this Agreement shall commence on the date specified above and continue for a period of one (1) year. The Agreement will automatically renew for successive one (1) year periods, unless terminated by either Party by giving sixty (60) days prior written notice.

## 7. DEFAULT AND TERMINATION.

Either Party may terminate this Agreement at any time by providing sixty (60) days prior written notice to the non-terminating Party. This Agreement may also terminate immediately through an act of default as described below.

- a. **Client Default.** Client will be considered to be in default by failing to perform any of the responsibilities outlined in this Agreement. If Client is in default, MinistryWorks may, at its option, either: i) immediately terminate the Agreement by giving notice to Client; or ii) allow Client an opportunity to correct the default in a timely manner. Additionally, if the default is due to non-sufficient funds in Client's bank account, MinistryWorks may, at its option, take either of the above actions or require a wire transfer of the necessary money.
- b. **Effect of Termination.** Upon termination of this Agreement, Client will be responsible to reimburse MinistryWorks for all Services performed prior to termination, and Client agrees to pay all outstanding fees due. MinistryWorks will cease to bear any responsibility for providing the Services under this Agreement and Client will be solely responsible for all obligations relating to payroll, tax, third-party remittance, etc. If, at the time of termination of this Agreement MinistryWorks is holding funds of Client, MinistryWorks will remit the funds to the appropriate authority, but at Client's request will remit funds directly to the Client.

## 8. NO WARRANTY.

MINISTRYWORKS MAKES NO EXPRESS OR IMPLIED WARRANTY AS TO THE MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE SERVICES PROVIDED PURSUANT TO THIS AGREEMENT. MINISTRYWORKS MAKES NO OTHER WARRANTY, PROMISE, COMMITMENT, GUARANTEE, OR REPRESENTATION WITH RESPECT TO THE SERVICES EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT.

## 9. EXCLUSIVE REMEDY AND LIMITATION OF LIABILITY.

MinistryWorks' entire liability and Client's exclusive remedy under this Agreement for MinistryWorks' performance under this Agreement is limited to the reimbursement or remittance of all fees paid by Client during the previous twelve-month period for Services performed by MinistryWorks. Further, MINISTRYWORKS WILL NOT BE LIABLE UNDER ANY CIRCUMSTANCES FOR INCIDENTAL, INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES AS A RESULT OF SERVICES PERFORMED UNDER THIS AGREEMENT.

## 10. INDEMNIFICATION.

Client agrees to defend, indemnify, and hold harmless MinistryWorks against liability, including reasonable costs of defense, imposed on MinistryWorks, its affiliates, and employees, by law for damages sustained that result from Client's negligence; Client's acts or omissions; Client's material breach of this Agreement; or Client's breach of NA-CHA Rules, provided that MinistryWorks has not caused or contributed to such loss by MinistryWorks' own acts, errors or omissions.

## 11. MISCELLANEOUS.

- a. Entire Agreement.** This Agreement (including any schedules or exhibits attached hereto), is the complete and exclusive Agreement between Client and MinistryWorks. This Agreement shall supersede any prior Agreement. In the event that performance of the Services provided herein in accordance with the terms of this Agreement would result in a violation of any statute, regulation, or government policy to which MinistryWorks is subject, and which governs or affects the transactions contemplated by this Agreement, then this Agreement shall be deemed amended to the extent necessary to comply with such statute, regulation, or policy, and MinistryWorks will incur no liability to Client as a result of such amendment. This Agreement shall otherwise not be modified, revised, altered, added to, extended in any manner, or superseded except by an instrument in writing signed by both Client and MinistryWorks.
- b. Non-Waiver.** The failure by either Party to enforce any provision of this Agreement shall not in any way be construed as a waiver of any such provision or other provisions within this Agreement, nor prevent either Party from enforcing each and every other provision of this Agreement.
- c. Force Majeure.** MinistryWorks shall not be responsible for any delay or failure to perform obligations specified in this Agreement due to causes beyond MinistryWorks' reasonable control, including but not limited to acts of God, terrorism, labor disputes, or acts of any governmental authority.
- d. Severability.** The invalidity or non-enforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or non-enforceable provisions were omitted.
- e. Prior Agreements.** This Agreement shall supersede and take precedence over any other prior agreement between the Parties pertaining to the subject matter hereof, whether written or verbal, all of which, if any, are hereby terminated.
- f. Assignment.** This Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto, their respective heirs, successors and permitted assigns; provided, however, this Agreement shall not be assignable by Client and may be assigned by MinistryWorks only to MinistryWorks' subsidiaries and affiliates, now or hereafter existing, or to any successor in interest to or assignee of all or substantially all of the assets of MinistryWorks.



- g. Dispute Resolution.** The Parties agree that any claim or dispute arising from or related to this Agreement shall be settled by Biblically-based mediation and, if necessary, legally binding arbitration in accordance with the Rules of Procedure for Christian Conciliation of the Institute for Christian Conciliation, or other mutually acceptable alternative dispute resolution process. Judgment upon any arbitration decision may be entered in any court otherwise having jurisdiction. The Parties understand that these methods shall be the sole remedy for any controversy or claim arising out of this Agreement and expressly waive their right to file a lawsuit in any civil court against one another for such disputes, except to enforce an arbitration decision. The arbitration shall be heard and decided by a panel of three (3) arbitrators selected from a list of proposed arbitrators provided by the Institute for Christian Conciliation. The arbitration decision rendered by the panel so selected shall be final and binding on all Parties.
- h. Governing Law.** This Agreement shall be construed and interpreted in accordance with the laws of the state of Indiana or federal trade secret law, as applicable, without giving effect to any choice or conflict of law provision or rule (whether of the state of Indiana or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the state of Indiana, or federal trade secret law. Each Party to this Agreement submits to the jurisdiction of the state and federal courts in Indiana, and to the venue in Fort Wayne, Indiana, for purpose of any action or proceeding arising out of or related to this Agreement.
- i. Notices.** Except as otherwise provided herein, any written notice or other written communication required or permitted to be given under this Agreement shall be delivered or sent by United States mail, by facsimile transmission, hand-delivered, or by e-mail to the contact information of the Parties listed below:
- If to MinistryWorks:      MinistryWorks, LLC  
   6400 Brotherhood Way  
   Fort Wayne, Indiana 46825  
   Email: payroll@ministryworks.com
- If to Client:                      At the address, facsimile, or e-mail included with Client's start-up information or to such other address as may be specified in writing by either Party.
- j. Counterparts.** This Agreement may be executed in counterparts, which taken together shall form one binding legal instrument. The Parties hereby consent to the use of electronic signatures in connection with the execution of this Agreement, and further agree that electronic signatures to this Agreement shall be legally binding with the same force and effect as manually executed signatures.

[The remainder of this page was left intentionally blank. Signature page follows.]

IN WITNESS WHEREOF, the Parties have entered in to this Agreement as of the Effective Date first written above.

If to MinistryWorks: MinistryWorks, LLC  
6400 Brotherhood Way  
Fort Wayne, IN 46825

If to Client: At the address included with Client's start-up information. or to such other  
address as may be specified in writing by either Party.

ACCORDINGLY, this Payroll and Tax Processing Service Agreement is hereby entered into and accepted by:

**MinistryWorks, LLC**

Authorized Representative (signature): Kathleen Turpin

Printed Name: Kathleen Turpin

Title: Chairman

Date: \_\_\_\_\_

**Client**

Client Name: \_\_\_\_\_

Authorized Representative (signature): \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Schedule (A) Pricing and Fee Schedule

<b>2018 Fee Schedule - Effective January 1, 2018</b>		
<b>Payroll processing fee</b>		
▪ First 2 employees	\$5.75	per person, per payroll
▪ Next 3 employees	\$3.15	per person, per payroll
▪ Next 20 employees	\$2.05	per person, per payroll
▪ 26+ employees	\$1.55	per person, per payroll
<b>Paper check surcharge</b>	\$1.50	per check, per payroll
<b>Quarterly tax fee</b>	\$30.00	
<b>W-2/1099 fee</b>	\$10.00	per person, per year
Other fees may apply.		

<b>Additional Fees (when applicable)</b>	
▪ Delivery charge	Actual Costs
▪ NSF fee	\$15.00
▪ Stop payment fee	\$40.00
▪ Late payroll fee	\$25.00
▪ Payroll reversal fee	\$30.00
▪ Amendment fee (per quarter)	\$30.00

## Exhibit A

### iSystems Pass-Through Terms and Conditions

<b>CUSTOMER</b>	
<b>SERVICE BUREAU</b>	MinistryWorks, LLC.
<b>MASTER AGREEMENT</b>	Payroll and Tax Processing Service Agreement

These iSystems Pass-Through Terms and Conditions (these “Conditions”) are hereby made a part of the Master Agreement between Service Bureau and Customer (each as defined in the table above). In addition to the terms and conditions set forth in the Master Agreement, these Conditions govern Customer’s use of any of iSystems’ applications and their related platforms and services made available to Customer or its respective end-users under the Master Agreement (including any related websites accessible via web browser and all related documentation, collectively the “Applications”). To the extent these Conditions conflict with any terms or conditions set forth in the Master Agreement, these Conditions shall control. The Applications are licensed, not sold, to Service Bureau and Customer, as applicable.

#### 1. Restrictions

Customer shall not, and shall not permit any third party to:

- a. copy any of the Applications;
- b. modify, translate, adapt or otherwise create derivative works or improvements, whether or not patentable, of any of the Applications;
- c. reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of any of the Applications or any part thereof;
- d. remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices from any of the Applications, including any copy thereof;
- e. rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available any of the Applications or any features or functionality of any of the Applications, to any third party for any reason, including by making any of the Applications available on a network where it is capable of being accessed by more than one device at any time;
- f. access the Applications in order to build any commercially available product or service;
- g. copy any features, functions, integrations, interfaces or graphics of the Applications;
- h. use the Applications in any manner, or in connection with any content, data, hardware, software or other materials provided by or on behalf of Customer or any third-party that contains code, including without

limitation, open source code and freeware, that would directly or indirectly: (i) create, or purport to create obligations with respect to the use or distribution of any software that incorporates, is combined with, or derived from the Applications; (ii) grant, purport to grant, or require Customer or iSystems to grant to any third party any rights or immunities under iSystems' intellectual property rights in any software that incorporates, is combined with, or is derived from the Applications; and/or (iii) require as a condition of its use, modification, and/or distribution, that any software incorporated into, derived from, or distributed with the Applications must be disclosed or distributed in any form;

- i. remove, disable, circumvent or otherwise create or implement any workaround to any copy protection, rights management or security features in or protecting any of the Applications; or violate iSystems' Acceptable Use Policy ("Acceptable Use Policy") set forth in Exhibit B.

## 2. Reservation of Rights

Customer acknowledges and agrees that the Applications are provided under license, and not sold, to Customer and Service Bureau, as applicable. Customer does not acquire any ownership interest in any of the Applications under these Conditions or the Master Agreement, or any other rights thereto other than to use the applicable Applications in accordance with the license granted, and subject to all terms, conditions and restrictions, under the Master Agreement. iSystems, its licensors, and service providers reserve and shall retain their entire right, title, and interest in and to the Applications, including all copyrights, trademarks, and other intellectual property rights therein or relating thereto, except as expressly granted to Customer and/or Service Bureau in these Conditions and/or the Master Agreement.

## 3. Collection and Use of Customer Information; Ownership of Data

- a. **Collection and Use of Information.** Service Bureau and Customer acknowledge that iSystems may use automatic means (including, for example, cookies and web beacons) to collect information about Service Bureau's and/or Customer's use of the Applications. All information iSystems collects through or in connection with the Applications is subject to iSystems' Privacy Notice located at: <http://www.evolutionhcm.com/privacy-policy>. Service Bureau and Customer hereby consent to all actions taken by iSystems with respect to such information in compliance with the Privacy Notice.
- b. **License to Data and Input.** Customer hereby grants iSystems a worldwide, non-exclusive, perpetual, irrevocable, royalty-free and fully paid-up, sub-licensable and non-transferable right and license to access, use and display the data Customer inputs into the Applications for the purposes of providing the Applications to Service Bureau and Customer and for aggregating such data with other data in order to analyze and use such data for purposes related to the Applications. Customer hereby grants to iSystems a royalty-free and fully-paid up, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Applications any suggestions, enhancement requests, recommendations or other feedback provided by Customer, its employees and any authorized users relating to the operation or functionality of the Applications ("Input"). iSystems shall have no obligation to make such Input available to Service Bureau or Customer. Customer shall have no obligation to provide such Input.

**c. Aggregated Data.** iSystems owns the aggregated and statistical data derived from the operation of Applications, including, without limitation, the number of records in the Applications, the number and types of transactions, configurations, and reports processed in the Applications and the performance results for the Applications (the “Aggregated Data”). Nothing herein shall be construed as prohibiting iSystems from utilizing the Aggregated Data for purposes of operating iSystems’ business, provided that iSystems’ use of the Aggregated Data will not reveal the identity, whether directly or indirectly, of Customer, or any individual or specific data entered by any individual into the Applications. In no event does the Aggregated Data include any personally identifiable information.

#### 4. Disclaimer of Warranties

THE APPLICATIONS ARE PROVIDED TO CUSTOMER “AS IS” AND WITH ALL FAULTS AND DEFECTS WITHOUT WARRANTY OF ANY KIND. TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, iSYSTEMS, ON ITS OWN BEHALF AND ON BEHALF OF ITS AFFILIATES AND ITS AND THEIR RESPECTIVE LICENSORS AND SERVICE PROVIDERS, EXPRESSLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, WITH RESPECT TO THE APPLICATIONS, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND WARRANTIES THAT MAY ARISE OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. WITHOUT LIMITATION TO THE FOREGOING, iSYSTEMS PROVIDES NO WARRANTY OR UNDERTAKING, AND MAKES NO REPRESENTATION OF ANY KIND THAT THE APPLICATION WILL MEET CUSTOMER’S REQUIREMENTS, ACHIEVE ANY INTENDED RESULTS, BE COMPATIBLE OR WORK WITH ANY OTHER SOFTWARE, APPLICATIONS, SYSTEMS OR SERVICES, OPERATE WITHOUT INTERRUPTION, MEET ANY PERFORMANCE OR RELIABILITY STANDARDS OR BE ERROR FREE OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED. IF SERVICE BUREAU OFFER ANY WARRANTIES, INDEMNITIES OR OTHER CONTRACTUAL COMMITMENTS TO CUSTOMER RELATING TO THE APPLICATIONS, SERVICE BUREAU IS SOLELY RESPONSIBLE FOR ALL SUCH WARRANTIES, INDEMNITIES OR OTHER CONTRACTUAL COMMITMENTS. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF OR LIMITATIONS ON IMPLIED WARRANTIES OR THE LIMITATIONS ON THE APPLICABLE STATUTORY RIGHTS OF A CONSUMER, SO SOME OR ALL OF THE ABOVE EXCLUSIONS AND LIMITATIONS MAY NOT APPLY TO CUSTOMER.

#### 5. Confidentiality

Customer shall not disclose or use any Confidential Information of iSystems except as reasonably necessary to perform its obligations or exercise its rights pursuant to these Conditions and the Master Agreement, except with iSystems’ prior written permission. Customer agrees to protect the Confidential Information of iSystems in the same manner that it protects its own Confidential Information of like kind, but in no event using less than a reasonable standard of care. A disclosure by Customer of Confidential Information of iSystems to the extent required by Law shall not be considered a breach of this Agreement, provided Customer provides iSystems with prior written notice of such compelled disclosure (to the extent legally permitted) and provides reasonable assistance, at iSystems’ cost, if iSystems wishes to contest the disclosure. If Customer discloses or uses (or threatens to disclose or use) any Confidential Information of iSystems in breach of the confidentiality protections hereunder, iSystems shall have the right, in addition to any other remedies available, to seek injunctive relief to enjoin such acts, it being

acknowledged by the parties that any other available remedies are inadequate. Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the other party; (ii) was known to a Customer prior to its disclosure by iSystems without breach of any obligation owed to iSystems; (iii) was independently developed by Customer without breach of any obligation owed to iSystems or Service Bureau; or (iv) is received from a third party without breach of any obligation owed to iSystems or Service Bureau.

## **6. Limitation of Liability.**

- a. IN NO EVENT WILL iSYSTEMS OR ITS AFFILIATES, OR ANY OF ITS OR THEIR RESPECTIVE LICENSORS OR SERVICE PROVIDERS, HAVE ANY LIABILITY FOR DAMAGES ARISING FROM OR RELATED TO CUSTOMER'S USE OF THE APPLICATIONS, DAMAGE TO ANY END USER'S COMPUTER OR DEVICE, INTERRUPTIONS OR DELAYS IN SERVICE, OR PERSONAL INJURY, PROPERTY DAMAGE, LOST PROFITS, COST OF SUBSTITUTE GOODS OR SERVICES, LOSS OF DATA, LOSS OF GOODWILL, BUSINESS INTERRUPTION, COMPUTER FAILURE OR MALFUNCTION OR ANY OTHER CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES.
- b. THE FOREGOING LIMITATIONS WILL APPLY WHETHER SUCH DAMAGES ARISE OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR iSYSTEMS WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW. SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OF LIABILITY SO SOME OR ALL OF THE ABOVE LIMITATIONS OF LIABILITY MAY NOT APPLY TO CUSTOMER.
- c. BY ACCESSING ANY OF THE APPLICATIONS OR WEBSITES, CUSTOMER UNDERSTANDS THAT IT MAY BE WAIVING RIGHTS WITH RESPECT TO CLAIMS THAT ARE AT THIS TIME UNKNOWN OR UNSUSPECTED, AND IN ACCORDANCE WITH SUCH WAIVER, CUSTOMER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS, AND HEREBY EXPRESSLY WAIVES, THE BENEFITS OF SECTION 1542 OF THE CIVIL CODE OF CALIFORNIA, AND ANY SIMILAR LAW OF ANY STATE OR TERRITORY, WHICH PROVIDES AS FOLLOWS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR."
- d. CUSTOMER AGREES THAT IN THE EVENT IT INCURS ANY DAMAGES, LOSSES OR INJURIES THAT ARISE OUT OF iSYSTEMS' ACTS OR OMISSIONS, THE DAMAGES, IF ANY, CAUSED TO CUSTOMER ARE NEITHER IRREPARABLE NOR SUFFICIENT TO ENTITLE CUSTOMER TO AN INJUNCTION PREVENTING ANY EXPLOITATION OF ANY APPLICATIONS, WEBSITES, SERVICES, PROPERTY, PRODUCTS OR OTHER CONTENT OWNED OR CONTROLLED BY iSYSTEMS, AND THAT CUSTOMER WILL HAVE NO RIGHTS TO ENJOIN OR RESTRAIN THE DEVELOPMENT, PRODUCTION, DISTRIBUTION, ADVERTISING, EXHIBITION OR EXPLOITATION OF ANY APPLICATIONS, WEBSITES, PROPERTY, PRODUCTS, SERVICES, OR OTHER CONTENT OWNED OR CONTROLLED BY iSYSTEMS.

## **7. Indemnification**

Customer agrees to indemnify, defend, and hold harmless iSystems and its officers, directors, employees, agents, affiliates, successors and assigns from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, arising from or relating to Customer's use or misuse of any of the Applications or Customer's breach of this Agreement or the Acceptable Use Policy.

## **8. Force Majeure**

Without limiting the generality of Sections 4 and 6 of this Exhibit A, iSystems shall not be liable for any failure or delay in performance for causes beyond iSystems' reasonable control and occurring without iSystems' fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving iSystems employees), computer attacks or malicious acts, such as attacks on or through the internet, any internet service provider, telecommunications or hosting facility.

## **9. Third-Party Beneficiary**

Service Bureau and Customer hereby designate iSystems (and its successors and assigns) as a third-party beneficiary of these Conditions, having the right to enforce the terms and conditions herein against Customer.

## **10. Survival**

Notwithstanding anything to the contrary in the Master Agreement, these Conditions shall survive the termination or expiration of the Master Agreement.

## **11. Assignment**

Notwithstanding anything to the contrary in the Master Agreement, Customer may not assign or delegate its rights or obligations under the Master Agreement without the prior written consent of iSystems.

## **12. Severability**

If any provision of these Conditions or the Acceptable Use Policy is illegal or unenforceable under applicable law, the remainder of the provisions will be amended to achieve as closely as possible the effect of the original term and all other provisions of these Conditions and the Acceptable Use Policy will continue in full force and effect.



## Exhibit B

### iSYSTEMS ACCEPTABLE USE POLICY

In addition to Customer's compliance with the Conditions, Customer must comply with the following rules in order to access or use any of the Applications. Failure to abide by the following rules will result in termination of Customer's license to use any of the Applications.

1. All users must be at least 18 years old to use any of the Applications.
2. Customer must not collect, use, or solicit any passwords or other account credentials from other users of any of the Applications.
3. Customer must not undertake any action that would disrupt or interfere with any of the Applications, or other users' use and enjoyment of any of the Applications (including the servers or networks to which any of the Applications are connected), including transmitting any malicious code, malware, viruses, worms, Trojan horses, or any type of content or code that is destructive or disruptive in any way.
4. Customer must not use any type of automated bot, scraper, crawler, spider, scanner, or other device that harvests information from any of the Applications.
5. Customer must not take any action that would suggest or imply that any of the Applications are associated with Customer, or any other website or entity.
6. Customer's use of any of the Applications must comply with all applicable laws, and Customer is solely responsible for such compliance. This includes, with respect to any data Customer inputs into any of the Applications, compliance with copyright law. Customer may not use any of the Applications for any illegal or unlawful purposes.
7. Customer is solely responsible for all activity that occurs using Customer's credentials (i.e., username and password). Use of Customer's credentials by anyone else is prohibited (except in the case of employees authorized to use credentials of a business), however, someone else's use of Customer's credentials does not relieve Customer of its responsibility. Customer must keep its credentials secure.
8. Customer's credentials do not actually belong to Customer; they are licensed to Customer by iSystems. Therefore, Customer may not transfer (e.g., selling, licensing, or assigning) its credentials to any other person.
9. Customer is solely responsible for the data it inputs into any of the Applications, and Customer represents to iSystems that all information Customer provides is true and accurate. Customer also represents that it has all necessary rights and consents to input such data and provide such information.