

ITCS-WEBCLOCK **Terms of Use**

Last Updated: July 2023

Please read these Terms carefully. Your use of the Site and or Services constitutes your agreement, without modification, to all of the terms, conditions, and notices in this Agreement. If you do not accept this Agreement, you may not use the Site or the Services.

THESE TERMS OF USE CONTAIN AN ARBITRATION CLAUSE THAT REQUIRES DISPUTES TO BE RESOLVED ON AN INDIVIDUAL, NON-CLASS ACTION BASIS THROUGH BINDING AND FINAL ARBITRATION. SEE SECTION 16 FOR MORE INFORMATION REGARDING THIS ARBITRATION CLAUSE, AND HOW TO OPT OUT.

Thank you for selecting the Services offered by ITCS, and/or its subsidiaries and affiliates (referred to as "ITCS", "we", "our", or "us"). The terms and conditions herein, as well as the Order and our privacy policy https://www.webclock.biz/Privacy_Policy_for_WebSite.pdf; (all collectively the "Terms" or the "Agreement") govern your use of the <https://www.webclock.biz>, associated web pages and related mobile software applications (collectively, the "Site") and the web-based employee time and attendance, payroll and related HR management tool software solutions made available via the Site, (collectively, the "Services").

A subscriber is a business entity customer for which a single account for employee benefits purposes is requested and opened for the Services (a "Subscriber") and who may authorize its affiliate entities or individual Users to access the Services. "You," "you" "Your" "yours" or other similar designation refers to the person accessing or using the Site (and includes the Subscriber) or the Services and, if that person is a representative of a Subscriber, that Subscriber. "You" may include an individual User of the Subscriber, a company, the Subscriber, or a company client of the Subscriber.

We reserve the right to change these Terms at any time by posting revised Terms on the Site.

1. AGREEMENT DEFINITIONS

"Content" means all text, files, images, graphics, illustrations, information, data (including employee or Subscriber Personal Data, including personal identifiable information as defined by the U.S. Department of Labor of any User) audio, video, photographs and other content and material any format, provided by the Subscriber, You, or Your Users that reside in, or run on or through, the Site or the Services.

"Documentation" means the user guides, online help, release notes, training materials and other Documentation provided or made available by ITCS to Subscriber regarding the use or operation of the Services or the Site.

"Order" means a services and pricing form which contains offer information related to ITCS Webclock products, services, support, third-party products, payment plans, fees, subscription types, hardware devices, and ITCS contact information. Once an account has been established by a Subscriber, all the items on an Order may be referred to collectively as a Subscription. An Order may be executed electronically or in paper form.

"Services Environment" refers to the combination of hardware and software components and applications owned, licensed, or managed by ITCS to which ITCS grants You and Your Users access to the Site as part of the Services You have ordered. Third Party data may also be hosted on the Site.

“Third Party” means those ITCS partners and affiliates who contribute Services to your Account. It does not include off-shore entities or foreign nationals.

“Users” or **“users”** means those employees, contractors, and end users, including an Administrator user as applicable, authorized by You or on Your behalf to use the Site or the Services in accordance with this Agreement and Your Order.

2. ELIGIBILITY REQUIREMENTS; ACCESS TO SERVICES

Before You can access or use the Site or the Services, You must be able to enter into a legally binding contract (this “Agreement” and/or the “Terms”) with us. This means that

(1) if You are a person, you must be at least eighteen (18) years old and have the legal capacity to enter into a contract, and

(2) if You are using the Site or the Services on behalf of a Subscriber, you must have the legal authority to bind such Subscriber to these Terms.

(3) You will comply with this Agreement and all applicable local, state, national, and international laws, rules, and regulations, including import and export regulations, and including but not limited to any biometric data retention and destruction policies, data security and privacy laws, HIPPA privacy laws, and the American with Disabilities Act, and as defined herein (collectively, the “Laws”).

To subscribe to the Services, our registration requirements must be met, including, without limitation, the Subscriber associated with your Account has executed an Order with us and/or our reseller, has paid all required fees and has provided complete and correct contact, billing and user information. By using the Site or the Services, You represent and warrant that you satisfy these qualifications (all of such qualifications set out in this paragraph, the “Eligibility Requirements”).

We may refuse service, close accounts of any Users and change the Eligibility Requirements at any time and without any liability or notice to You.

3. THE ACCOUNT

The execution and delivery by the Subscriber to ITCS, or its authorized reseller of one or more Orders identifying, among other things, the type of Services to be provided under these Terms and the fees for such Services, is more specifically defined below. Once the Subscriber has executed an Order, We will establish a Subscriber account (the “Account”).

We will establish an Account for each Subscriber governed by the applicable Services and the Users they designate based on information provided by the Subscriber. You agree to provide and maintain your Account with accurate and complete information about yourself as the Subscriber and your authorized Users as prompted by the Services. By providing us with such information, You authorize us and our Third-Party agents to make any inquiries we consider necessary to confirm such information. You will not impersonate any third party or misrepresent your identity or affiliation with any third party, including using another person's account information, or another person's name, likeness, voice, image or photograph.

You are responsible for maintaining the confidentiality of your personal information and for restricting access to your Account. A Subscriber may authorize additional Users on its Account, subject to the Subscriber's payment of any additional fees applicable thereto. Users are not permitted to share Account access credentials.

You are responsible for all activities that occur under your Account (or any downstream accounts associated with your subscription), and we will not be liable for any actions by any other individual that uses your Account (including, without limitation, any other authorized users), identity or personal information with or without your consent or knowledge. You also agree to notify us promptly of any unauthorized use of your Account, Account information, identity, or personal information, or other breach of security that you become aware of involving or relating to the Site or the Services. In addition, you agree to exit from your Account or the Services at the end of each session.

4. FEES; PAYMENT; ORDER

The fees applicable to Subscribers' and their users' use of the Services (if any) are described in the applicable Order. Except as otherwise set forth in the applicable Order, we may modify or change the fees for the Services at any time on at least thirty (30) days prior written notice via email to the primary administrative user on your account.

Some fees for the Services may be determined on per-unit basis, and your Subscriber's access to the Services is limited to the number of units indicated on the applicable Order. If a Subscriber extends access to the Services to any additional units, the fees due for your subscription will automatically increase based on the pricing set forth in such Order, and such increased fees will thereafter (or until any subsequent fee increase) be considered the minimum recurring fees due with respect to the Services, regardless of whether actual usage of the Services later decreases. Where the fees are calculated on a "per End User" basis, such unit consists of each End User with active, assigned access credentials.

You do not acquire under these Terms any right or license to use the Services, including the Site and the Services Environment, in excess of the scope or duration of the Services stated in your Order. Upon the end of the Services ordered, Your right to access and use the Services will terminate.

Except as otherwise set forth in the applicable Order, all fees are due and payable within thirty (30) days after your receipt of an invoice therefor. Except as described under "Termination," Subscribers will not be entitled to receive a refund from us under any circumstances.

5. USE OF SITE AND SERVICES

We may change, suspend or discontinue any aspect of the Site or the Services at any time, including the availability of any feature, database or function. We may also impose limits on certain features and services or restrict your access to part, or all, of the Site or the Services, without notice or liability.

All of the Site and Services Content we make available to you is subject to copyright, trademark, service mark, trade dress and other intellectual property rights or licenses held by us or our licensors. We grant you a non-exclusive, non-assignable, revocable, limited license to access and use the Site and the Services only to gather information about and participate in the programs and services we offer on the Site, including, without limitation, the Services. You may not otherwise use the data displayed on the Site or the Services. This is an Agreement for Services and access to the Site only, and you are not granted a license to any software by this Agreement. Nothing on the Site or the Services shall be construed to confer any grant or license of any intellectual property rights, whether by estoppel, by implication, or otherwise. We and our licensors retain all right, title and interest in and to the Site and the Services, and reserve all rights not expressly granted herein.

6. RESTRICTIONS

You shall not, and shall not permit anyone to: (i) copy or republish the Services; (ii) make the Services

available to any person other than authorized Users (iii) use or access the Services to provide service bureau, time-sharing or other computer hosting services to third parties, (iv) modify or create derivative works based upon the Services or Documentation; (v) remove, modify or obscure any copyright, trademark or other proprietary notices contained in the software used to provide the Services or in the Documentation, (vi) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the software used to provide the Services, except and only to the extent such activity is expressly permitted by applicable law, or (vii) access the Services or use the Documentation in order to build a similar product or competitive product. Subject to the limited licenses granted herein, ITCS shall own all right, title and interest in and to the software, Services, Documentation, and other deliverables provided under this Agreement, including all modifications, improvements, upgrades, derivative works and feedback related thereto and intellectual property rights therein. Subscriber agrees to assign all right, title and interest it may have in the foregoing to ITCS.

You may not download (other than page caching) any of the Site, other than any end user applications available via the Site that are intended to be downloaded, installed, accessed and used on a mobile device solely for the purpose of accessing and using the Services in accordance with the terms of this Agreement. You also may not copy, modify, publish, distribute, transfer or create derivative works from any of the Site or the Services or any materials on the Site or the Services (including, without limitation, computer programs or other code). You must abide by all trademark and copyright notices, information, or restrictions contained in or attached to any portion of the Site or the Services.

Your license to access and use the Site and the Services does not include the right to resell any of the Site, the Services or its contents. You may not collect or use any product or service listings, descriptions, or prices, download or copy account information for the benefit of a third party, or use data mining, robots, or similar data gathering and extraction tools. You may not frame or utilize framing techniques to enclose any proprietary information (including images, text, page layout, or form) of the Site or the Services without our written consent. You may not use any metatags or any other "hidden text" utilizing the name, domain name or trademarks of ITCS without our express written consent. Any unauthorized use terminates the permission or license granted by us to access the Site and Services.

7. YOUR RESPONSIBILITIES

Assistance. Subscriber shall provide commercially reasonable information and assistance to ITCS to enable ITCS to deliver the Services. Upon request from ITCS, Subscriber shall promptly deliver Subscriber Content to ITCS in a format specified and accessible by ITCS. Subscriber acknowledges that ITCS's ability to deliver the Services in the manner provided in this Agreement may depend upon the accuracy and timeliness of such information and assistance.

Compliance with Laws. You shall comply with all applicable local, state, national and foreign laws in connection with its use of the Services, including but not limited to, those laws related to data privacy, HIPPA, biometric data privacy laws, American with Disabilities Act, international communications, and the transmission of technical or personal data, collectively, the "Laws." Subscriber acknowledges that ITCS exercises no control over the Content of the information transmitted by Subscriber or the Users through the Services. Subscriber shall not upload, post, reproduce or distribute any information, software or other material protected by copyright, privacy rights, or any other intellectual property right without first obtaining the permission of the owner of such rights. You shall obtain at Your sole expense any rights and consents from Users, employees, affiliates, subsidiaries and third-parties necessary for you to provide Your Content to Us.

Unauthorized Use; False Information. Subscriber shall: (a) notify ITCS immediately of any unauthorized use of any password or user id or any other known or suspected breach of security, (b) report to ITCS immediately and use reasonable efforts to stop any unauthorized use of the Services that is known or suspected by Subscriber or any User,, and (c) not provide false identity information to gain access to or use the Services.

Administrator Access. Subscriber shall be solely responsible for the acts and omissions of its administrator Users. ITCS shall not be liable for any loss of Content or functionality caused directly or indirectly by the administrator Users.

Subscriber Input. Subscriber is solely responsible for collecting, inputting and updating all Subscriber Content stored on the Site, and for ensuring that the Subscriber Content does not (i) include anything that actually or potentially infringes or misappropriates the copyright, trade secret, trademark or other intellectual property right of any third party, or (ii) contain anything that is obscene, defamatory, harassing, offensive or malicious. Subscriber shall: (i) notify ITCS immediately of any unauthorized use of any password or user id or any other known or suspected breach of security, (ii) report to ITCS immediately and use reasonable efforts to stop any unauthorized use of the Service that is known or suspected by Subscriber or any User, and (iii) not provide false identity information to gain access to or use the Service.

License from Subscriber. Subject to the terms and conditions of this Agreement, Subscriber shall grant to ITCS a worldwide, non-exclusive and royalty free license, to copy, store, configure, perform, display and transmit Subscriber Content as necessary to provide the Services to Subscriber.

Ownership and Restrictions. Subscriber retains ownership and intellectual property rights in and to its Subscriber Content. ITCS or its licensors retain all ownership and intellectual property rights to the Services, software programs, and anything developed and delivered under the Agreement. Third party software, content, or services (“Third Party Services”) that may be appropriate or necessary for use with some ITCS programs is specified in the program Documentation or Ordering document as applicable. Subscriber’s right to use such Third-Party Services is governed by the terms of the Third-Party terms and conditions.

Suggestions. ITCS shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests, recommendations derivative data or technology, or other feedback provided by Subscriber, including Users, relating to the operation of the Services.

Third Party Content. As part of your Subscription on the Order, ITCS may provide you with access to Third Party Content with the Services Environment. The type and scope of any Third-Party Content is defined in the Order. The third-party owner, author or provider of such Third Party Content retains all ownership and intellectual property rights in and to that content, and Your rights to use such Third Party Content are subject to, and governed by, the terms applicable to such content as specified by such third party owner, author or provider.

8. SUBSCRIBER CONTENT

With respect to any Content owned or licensed by you and provided to ITCS to be used in conjunction with the Services; or information or data output generated by the Services that is based on Content provided by you to ITCS via the Site or Services (collectively, the “Subscriber Content”), you: (i) grant ITCS and its Third Party partners and affiliates the right to use, copy, modify, manipulate and create derivative works of the Subscriber Content as necessary in order for ITCS to provide and perform the Services; (ii) agree to secure rights in the Subscriber Content necessary for ITCS to provide the Services without violating the rights of any third party, or otherwise obligating ITCS to you or any third party (except as otherwise set out in these Terms). Our access to any personally identifiable information in the Subscriber Content is authorized solely in connection with our provision of the Services pursuant to this Agreement and is governed by the Privacy Policy. Except as otherwise required by applicable law, we do not and will not accept any obligations in any separate license or other agreement that may apply to the Subscriber Content or use of the Services.

Upon termination of the subscription applicable to your Account, we will disable access to all Accounts related

to such subscription. Unless we and Subscriber otherwise agree in writing, we will delete the Subscriber Content in such Accounts within a reasonable period of time after termination. Unless otherwise provided in writing within 30 days of the termination of your Account, You agree that we have no obligation to hold or return any Subscriber Content after termination. We also have no liability for deletion of any Subscriber Content pursuant to these terms.

If we are required to respond to any search warrant, court order, subpoena other valid legal order relating to you or the Subscriber Content, or you request material assistance from ITCS in connection with your efforts to conduct any investigation, to cooperate with or respond to any investigation being conducted by a third party, or to pursue or respond to any matter or respond to any legal or administrative proceeding or similar matter, you agree to reimburse us for any cost that we incur in so responding or assisting.

It is your responsibility to ensure the integrity of your Subscriber Content posted or uploaded to the Services, in accordance with any Service specifications or instructions that we may provide to you (whether via the Services or otherwise) from time to time. Therefore, you hereby agree to and indicate responsibility for the accuracy, completeness and timeliness of your data (including, without limitation, Subscriber Content) as entered in the Services, including ensuring compliance with these Terms. ITCS may add a level of data validation periodically, but this in no way alleviates your role in maintaining the integrity of your data. ITCS will not be responsible for the evaluation or verification of your information. You agree to indemnify, defend and hold harmless ITCS and its affiliates, and any of their officers, directors, shareholders, employees, consultants, agents, licensors and suppliers, from and against any and all claims, liability, damages, costs or expenses, including but not limited to reasonable attorneys' fees, arising from incomplete or inaccurate Content in the Services. It is your responsibility, as an authorized representative of your Subscriber(s), to give your best efforts in providing current Content in a timely manner.

Biometric Data

You, the Subscriber, are responsible for developing and complying with your own biometric data retention and destruction policies as may be required under applicable law. Biometric data means any biological characteristics of a person, or information based upon such a characteristic, including those characteristics such as those defined as “biometric identifiers” and “biometric information” under the Illinois Biometric Information Privacy Act, 740 ILCS 14/1, et seq. You, the Subscriber, are responsible for compliance with applicable law governing any collection, storage, use, and/or transmission of biometric data conducted or facilitated through the employee timekeeping device.

Subscriber agrees when using biometric timekeeping devices or timekeeping devices attachments, they must:

1. Inform the employee in writing that biometric data is collected, stored and used; and
2. State the specific purpose(s) for collecting biometric data and specific length of time for which it is being collected, stored and used; and
3. Obtain a written release from the employee authorizing the Subscriber, ITCS and/or ITCS's authorized third party agents or vendors to collect, use, store, and transmit employee biometric data, and authorizing the Subscriber to provide such data to ITCS; and
4. Indemnify, defend and hold harmless ITCS and its respective employees, agents, directors, officers, representatives, affiliate entities, successors and assigns (collectively, the “**Indemnified Parties**”) from and against any and all costs, expenses (including, without limitation, reasonable attorney fees), liabilities, damages, losses, fines, charges, fees, judgments, claims, actions, lawsuits or demands incurred by or asserted against any one or more of the Indemnified Parties caused, or alleged to be caused, by the acts, omissions, negligence or breach of Subscriber's obligations in this compliance section. Subscriber's indemnity

obligations shall survive expiration or termination of this Agreement.

9. PERSONAL DATA

Subscriber hereby acknowledges and agrees that ITCS's performance of this Agreement may require ITCS to process, transmit and/or store Subscriber personal data, or the personal data of Subscriber Users, employees and Affiliates. Personal Data shall include personally identifiable information as defined by U.S. Department of Labor, ("Personal Data"). By submitting Personal Data to ITCS, Subscriber agrees that ITCS and its Affiliates may process, transmit and/or store Personal Data only to the extent necessary for, and for the purpose of, enabling ITCS to perform its obligations to under this Agreement. In relation to all Personal Data provided by or through Subscriber to ITCS, Subscriber will be responsible as sole Data Controller for complying with all applicable data protection or similar laws such as EU Directive 95/46/EC and laws implementing that Directive that regulate the processing of Personal Data and special categories of data as such terms are defined in that Directive. Subscriber agrees to obtain all necessary consents and make all necessary disclosures before including Personal Data in Content and using the Site and the Services. Subscriber confirms that Subscriber is solely responsible for any Personal Data that may be contained in Content, including any information which any User shares with third parties on Subscriber's behalf. Subscriber is solely responsible for determining the purposes and means of processing Subscriber Personal Data by ITCS under this Agreement, including that such processing according to Subscriber's instructions will not place ITCS in breach of applicable data protection laws. Prior to processing, Subscriber will inform ITCS about any special categories of data contained within Subscriber Personal Data and any restrictions or special requirements in the processing of such special categories of data, including any cross-border transfer restrictions. Subscriber is responsible for ensuring that the ITCS Services meets such restrictions or special requirements.

10. SERVICE METRICS

By using the Services, you grant ITCS the right to collect data about your use of the Services, including, without limitation, data related to how your users access and utilize the Services ("Service Metrics Data"). You agree that we may collect this data by automated means, such as data mining, robots, scraping and similar extraction tools. You hereby grant us and our affiliated companies and necessary sub-licensees a nonexclusive, worldwide, royalty-free, sub-licensable and transferable right during the term of this Agreement to use, copy, reproduce, reformat, modify, create derivative works based on, excerpt, translate, publish, transmit, perform, upload, or display such Service Metrics Data (including all related intellectual property rights) solely in connection with performing for you or providing to you the Services. In addition, you grant ITCS and its affiliated companies and necessary sub-licensees a nonexclusive, worldwide, royalty-free, perpetual, irrevocable, sub-licensable and transferable right to use, copy, reproduce, reformat, modify, create derivative works based on, excerpt, translate, publish, broadcast, transmit, perform, upload, or display your Service Metrics Data (including all related intellectual property rights), only as aggregated with other subscriber Service Metrics Data in a manner that does not contain personally identifiable information, to improve or market the Site or Services.

11. THIRD PARTY SITES AND SERVICES

The Site and Services may allow you to enable links to, or incorporate or utilize, other websites, services or tools owned or maintained by third parties (collectively, "Third Party Services"). By enabling or accessing any Third-Party Services via the Site or the Services, you hereby grant us all required permissions to access such Third-Party Services and provide these functionalities.

We may terminate any Third-Party Service's ability to interact with the Site or the Services at any time, with or without notice, and in our sole discretion, with no liability to you or to the third party. Any Third-

Party Service may take actions to impact our ability to make available some or all of the features of the Site or the Services at any time, with or without notice, and we will not be liable to you or to the Third Party for any such actions.

The Third-Party Services are not under our control, and we are not responsible for the contents of any Third-Party Services or any changes or updates to a Third-Party Service. We do not guarantee the accuracy and completeness of the information obtained through any Third-Party Service. Accordingly, we will not be liable for decisions made based upon information on the Third-Party Services. We are not responsible for web casting or any other transmission received from any Third-Party Services. We provide the Third-Party Services to you only as a convenience and as an enhancement to our Services, and the inclusion of any Third-Party Services does not imply endorsement by us of the Third-Party Service or any association with its operators. You agree to abide by the terms and conditions of any applicable Third-Party Services. Notwithstanding anything set forth herein to the contrary, you will abide by these Terms regardless of anything to the contrary in your agreement with any third party, and you shall not use any Third-Party Services to avoid the restrictions set forth in these Terms.

12. TERMINATION

We may suspend the Site or the Services, in whole or in part, or terminate your Account at any time for convenience or upon notice to you in the event you or your Users violate these Terms. Your Account will also be closed if you or your Subscriber, as applicable, cease to be a Subscriber covered by an active subscription (whether based on a failure to pay fees or otherwise), cease to satisfy the Eligibility Requirements or if an administrative User on your Subscriber's Account directs that your account be terminated. Except as may be set forth in the applicable Order: (i) either the Subscriber or we have the right to terminate any Order and the subscription to the Services for convenience on at least 30 days prior written notice (in addition to any right to terminate for breach of these Terms); and (ii) we have no obligation to provide a refund of any subscription fees upon such termination.

13. WARRANTY DISCLAIMER

THE SITE, THE SERVICES, AND THE INFORMATION, SOFTWARE, PRODUCTS, SERVICES, CONTENTS, GRAPHICS, DOCUMENTS AND OTHER ELEMENTS INCLUDED IN OR AVAILABLE THROUGH THE SITE OR THE SERVICES (COLLECTIVELY, THE "CONTENTS") MAY INCLUDE ERRORS. WE MAY, IN OUR SOLE DISCRETION, MAKE IMPROVEMENTS, DELETIONS, OR OTHER CHANGES IN THE SITE, THE SERVICES OR THE CONTENTS AT ANY TIME WITHOUT NOTICE, BUT WE ARE NOT REQUIRED TO DO SO. WE MAY IMPOSE LIMITS ON CERTAIN FEATURES AND SERVICES OR RESTRICT YOUR ACCESS TO THE SITE, THE SERVICES OR TO PORTIONS OF THE SITE OR THE SERVICES WITHOUT NOTICE OR LIABILITY.

WE MAKE NO REPRESENTATIONS ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS OR ACCURACY OF THE SITE, THE SERVICES OR THE CONTENTS FOR ANY PURPOSE. THE SITE, THE SERVICES AND THE CONTENTS ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND, AND WE AND OUR SUPPLIERS AND LICENSORS DISCLAIM ANY AND ALL WARRANTIES WITH REGARD TO THE SITE, THE SERVICES, THE CONTENTS AND ANY THIRD-PARTY SERVICES, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT. YOU ASSUME ALL RESPONSIBILITY AND RISK FOR YOUR USE OF THE SITE, THE SERVICES, CONTENTS OR ANY THIRD-PARTY SERVICES. WE DO NOT WARRANT THAT ANY MATERIAL OR FUNCTIONS IN THE SITE, THE SERVICES, THE CONTENT, THE THIRD-PARTY SERVICES OR THE SERVER THAT MAKES THE SITE AND SERVICES

AVAILABLE WILL BE UNINTERRUPTED OR ERROR FREE, THAT DEFECTS WILL BE CORRECTED OR THAT THE SITE, THE SERVICES, THE THIRD-PARTY SERVICES OR THE SERVER IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. WE WILL NOT BE LIABLE FOR THE USE OR PERFORMANCE OF THE SITE, THE SERVICES, THE THIRD-PARTY SERVICES THE CONTENTS OR ANY ERRORS CONTAINED THEREIN.

14. LIMITATION OF LIABILITY

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL WE OR OUR AGENTS, SUPPLIERS OR LICENSORS BE LIABLE FOR ANY DAMAGES WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THE SITE, THE SERVICES, THE CONTENTS OR ANY THIRD PARTY SERVICES, INCLUDING, WITHOUT LIMITATION, DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, CONSEQUENTIAL, LOSS OF DATA OR PROFITS, LOSS OF OR DAMAGE TO PROPERTY OR CLAIMS OR THIRD PARTIES, WHETHER BASED ON CONTRACT, TORT OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF DAMAGES. IF YOU ARE DISSATISFIED WITH ANY OF THE SITE, THE SERVICES OR ANY OF THE TERMS OF THIS AGREEMENT, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE SITE AND THE SERVICES.

IN NO EVENT SHALL THE AGGREGATE LIABILITY OF ITCS, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE, WHETHER ACTIVE, PASSIVE OR IMPUTED), PRODUCT LIABILITY, STRICT LIABILITY OR OTHER THEORY, ARISING OUT OF OR RELATING TO THE USE OF THE SITE, THE SERVICES OR THE CONTENTS EXCEED ANY COMPENSATION PAID BY YOU FOR ACCESS TO OR USE OF THE SITE, THE SERVICES OR THE CONTENTS, AS THE CASE MAY BE, DURING THE SIX (6) MONTHS PRIOR TO THE DATE OF ANY CLAIM.

We are not liable or responsible for any delays or failure in performance of any part of the Site or Services due to any cause beyond our control, including, without limitation, acts of God, changes to law or regulations, embargoes, war, terrorist acts, riots, fires, earthquakes, nuclear accidents, zombie apocalypse, floods, strikes, power blackouts, volcanic action, unusually severe weather conditions, and acts of hackers or third-party internet service providers.

You agree that ITCS has entered into this Agreement in reliance upon the disclaimers of warranty and the limitations of liability set forth herein, that they reflect an allocation of risk between the parties (including the risk that a contract remedy may fail of its essential purpose and cause consequential loss), and that they form an essential basis of the bargain between the parties.

15. INDEMNIFICATION

You agree to indemnify, defend and hold us, our suppliers, licensors, licensees and affiliates, and all of our and their respective directors, officers, agents, distributors, employees and other agents (collectively, the "Indemnified Parties") harmless from and against any and all damages, losses, liabilities, penalties, settlements, expenses and costs incurred by the Indemnified Parties (including, without limitation, reasonable attorneys' fees and costs) in connection with any claim arising out of or related to (i) your Submissions or Services Data, or any Content that you post or distribute via the Site or the Services; and/or (ii) any breach by you of this Agreement; and/or (iii) your use of the Site, the Services or any Third Party Services. You agree to provide us with prompt written notice in the event of any such claims or actions. You shall cooperate fully with us in the defense of any claim. We reserve the right, at your expense, to assume the exclusive defense and control of any matter subject to indemnification by you, and you shall not settle any action or matter without our written consent.

In addition, you acknowledge and agree that we have the right to seek damages when you use the Site or the Services for unlawful purposes, in an unlawful manner, or in a manner inconsistent with the terms of

these Terms, and that such damages may include, without limitation, direct, indirect, special, incidental, cover, reliance or consequential damages. In the event that we are required to respond to a third party or law enforcement subpoena or court order that is related to your use of the Site or the Services, we may, in our sole discretion, require you to reimburse us for our reasonable expenses associated with complying with such subpoena or order.

16. PLEASE READ THIS SECTION CAREFULLY. IT AFFECTS YOUR LEGAL RIGHTS, INCLUDING YOUR CONSTITUTIONAL RIGHT TO FILE A LAWSUIT IN COURT.

Choice of Law; Dispute Resolution. You agree that any dispute or claim between you and us relating in any way to the these Terms, the Agreement, the Services, the Site, will be resolved by binding arbitration, rather than in court, except that (1) you or we may assert claims in small claims court if the claims qualify and remain in such court; and (2) you or we may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents).

You agree this Agreement shall be governed by, and construed and enforced in accordance with, the substantive laws of The State of Florida without regard to its principles of conflicts of laws. Any disputes arising out of or relating to the Services or this Agreement (including the validity and scope of the Agreement to arbitrate) shall be resolved exclusively by final and binding arbitration administered by the American Arbitration Association (“AAA”) under the Federal Arbitration Act, and shall be conducted before a single arbitrator pursuant to the applicable Rules and Procedures established by the AAA. The arbitration shall be held in Orlando, Florida, unless the AAA or the arbitrator shall determine that venue in such city is unreasonably burdensome, in which case the AAA or the arbitrator shall select a venue that is not unreasonably burdensome to both parties.

The arbitrator may render early or summary disposition of some or all issues, after the parties have had a reasonable opportunity to make submissions on these issues. The arbitrator’s award of damages must be consistent with the terms of the “Limitation of Liability” section above as to the types and amounts of damages for which a party may be held liable.

NO CLASS ACTION. Any arbitration shall not permit claims on a class, mass, representative, or private attorney general basis, and no claims of other parties may be consolidated with Subscriber’s claims in the arbitration without both Subscriber’s, yours, and ITSC’s consent.

WAIVER OF JURY TRIAL. Each party waives its Constitutional and Statutory rights to have its case decided by a jury and waive its rights to participate in a class, mass, representative, private attorney general, or consolidated action. If any part of this clause is later deemed invalid as a matter of law, then it shall be severed and the remaining portions of this section shall remain in effect, then this entire section shall be deemed invalid and the arbitration clause shall be void.

You acknowledge that its breach of any intellectual property or confidentiality provisions herein (including any limitations or restrictions on use of the Service) will cause substantial harm to Company that could not be remedied by payment of damages alone. Accordingly, Company will be entitled to seek preliminary, temporary and permanent injunctive relief, and other equitable relief, for any such breach, without any requirement to post bond, in any court of competent jurisdiction.

30-Day Right to Opt Out. You have the right to opt out of the provisions of this Arbitration Agreement by sending written notice of your decision to opt out to the following address: IT Computer Service at the following address: 275 S. Charles Richard Beale Blvd. DeBary, FL Suite 110 DeBary, FL 32713, within 30 days after first setting up your Account or first becoming subject to the Terms. Your notice must include your name and address, the email address you used to set up your Account, and an unequivocal statement that you want to opt out of this Arbitration Agreement. If you opt out of this Arbitration Agreement, all other parts

of this Agreement will continue to apply to you.

Survival. This “Arbitration Agreement” section will survive any expiration or termination of this Agreement.

17. GENERAL

Notices. Except as otherwise permitted in this Agreement, notices under this Agreement shall be in writing and shall be deemed to have been given (a) five (5) business days after mailing if sent by registered or certified U.S. mail, (b) if sent by our email to the administrative User, on the next Business Day after being sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered or (c) when delivered if delivered personally or sent by express courier service. **All notices shall be mailed to IT Computer Service at the following address: 275 S. Charles Richard Beale Blvd. DeBary, FL Suite 110 DeBary, FL 32713.**

Force Majeure. Each party will be excused from performance for any period during which, and to the extent that, such party or any subcontractor is prevented from performing any obligation or Service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation, acts of God, strikes, lockouts, riots, acts of terrorism or war, epidemics, communication line failures, and power failures.

Waiver. No waiver shall be effective unless it is in writing and signed by the waiving party. The waiver by either party of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach.

Audit. ITCS may audit Your use of the Services (e.g., through use of software tools) to assess whether Your use of the Services is in accordance with Your Order. You agree to cooperate with ITCS’s audit and provide reasonable assistance and access to information. Any such audit shall not unreasonably interfere with Your normal business operations. You agree to pay within 30 days of written notification any fees applicable to Your use of the Services in excess of Your rights. If You do not pay, ITCS can end Your Services and/or Your order. You agree that ITCS shall not be responsible for any of Your costs incurred in cooperating with the audit.

Severability. If any term of this Agreement is held to be invalid or unenforceable, that term shall be reformed to achieve as nearly as possible the same effect as the original term, and the remainder of this Agreement shall remain in full force. For the remainder of doubt, if any term of this Agreement is found to be invalid or unenforceable, the remaining provisions will remain effective.

Entire Agreement. This Agreement (including the Privacy Policy and the Order) contain the entire agreement of the parties and supersedes all previous oral and written communications by the parties, concerning the subject matter of this Agreement.

Survival. Sections 5, 7, 8, 9, 10, 13, 14, 15 and 16 of this Agreement shall survive the expiration or termination of this Agreement for any reason.

Publicity. ITCS may include Subscriber’s name and logo in its Subscriber lists and on its website. Upon signing, ITCS may issue a high-level press release announcing the relationship and the manner in which Subscriber will use the ITCS solution. ITCS shall coordinate its efforts with appropriate communications personnel in Subscriber’s organization to secure approval of the press release if necessary.

Export Regulations. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Services. Subscriber agrees that such export control laws govern its use of the Services (including technical data) and any services deliverables provided under this Agreement, and Subscriber agrees to comply with all such export laws and regulations. Subscriber agrees that no data, information, software programs and/or materials resulting from services (or direct product thereof) will be

exported, directly or indirectly, in violation of these laws.

No Third-Party Beneficiaries. This Agreement is an agreement between the parties, and confers no rights upon either party's employees, agents, contractors, partners of Subscribers or upon any other person or entity. You may not assign this Agreement or give or transfer the Services or an interest in them to another individual or entity.

Independent Contractor. The parties have the status of independent contractors, and nothing in this Agreement nor the conduct of the parties will be deemed to place the parties in any other relationship, including partnership, joint venture, or agency relationship. Except as provided in this Agreement, neither party shall be responsible for the acts or omissions of the other party or the other party's personnel. We shall each be responsible for paying our own employees, including employment related taxes and insurance. You shall defend and indemnify ITCS against any liability arising under any applicable Laws, ordinances or regulations related to Your termination or modification of the employment of any of Your employees in connection with the Services under this Agreement.

Statistical Information. ITCS may anonymously compile statistical information related to the performance of the Services for purposes of improving the service, provided that such information does not identify Subscriber's data or include Subscriber's name.

U.S. Government Rights Clause: The Site, the Services and the software used to provide the Site and the Services, including all Documentation, are "Commercial Items," as that term is defined at 48 C.F.R. §2.101, and consist of "Commercial Computer Software" and "Commercial Computer Software Documentation." The Commercial Computer Software and Commercial Computer Software Documentation are licensed to U.S. Government end users: (1) only as Commercial Items, (2) with the same rights as all other end users, and (3) according to the Terms. This U.S. Government Rights clause, consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202 is in lieu of, and supersedes, any other FAR, DFARS, or other clause or provision that addresses Government rights in the software and computer software documentation or technical data related to the Services including Software and commercial computer software documentation is acquired or licensed. Published and Unpublished rights are reserved under the copyright laws of the United States. Manufacturer is IT Computing Services, Inc., 275 S. Charles Richard Beall Blvd, Suite 110, DeBary FL 32713.

If you have any questions regarding these Terms or your use of the Site or Services, please contact us at support@webclock.biz.