

THIS USER AGREEMENT IS A LEGAL CONTRACT BETWEEN YOU AND SYSTEM SOLUTIONS LLC GOVERNING YOUR USE OF ALL SOFTWARE CREATED BY SYSTEM SOLUTIONS LLC AND THE SERVICES OUTLINED IN THIS USER AGREEMENT. SYSTEM SOLUTIONS IS UNWILLING TO LICENSE OR OTHERWISE AUTHORIZE YOUR USE OF THE SOFTWARE LICENSED OR THE OTHER SERVICES PROVIDED HEREIN EXCEPT ON THE TERMS CONTAINED IN THIS USER AGREEMENT. YOUR USE OF THE SOFTWARE SHALL CONSTITUTE AN ACCEPTANCE BY YOU OF THE TERMS OF THIS USER AGREEMENT. IF YOU DO NOT WISH TO AGREE TO THE TERMS OF THIS USER AGREEMENT, DISCONTINUE ALL USE OF THE SOFTWARE.

## **SOFTWARE AND SERVICES**

The Software and Services provided to You under this Agreement does not apply to any third party software (including, without limitation, Microsoft software), third party hardware, third party software support or third party enhancements, which shall be governed by the applicable agreements between You and such third party.

## **PRICE**

The Price for Software and Services shall be specified by System Solutions LLC. Any additions, deletions, or changes to the Software and Services, which effect the price of the software or services must be obtained in writing by System Solutions LLC.

## **SERVICE**

For any requests by You for Services from System Solutions LLC, You shall cooperate and support System Solutions LLC in the performance of the Services, including without limitation, timely access to data, information, and personnel necessary from You to complete the Services. You understand and agree that the Services are dependent upon timely completion of Your responsibilities as well as timely decisions and approvals by You in connection with the Services. You further understand and agree that all decisions made by You in connection with the Services provided under this Agreement are the responsibility of, and made by You solely and exclusively; and in connection with its performance of the Services hereunder, System Solutions LLC shall be entitled to rely on all of Your decisions and approvals whether oral or written.

## **RETURNS**

All costs for Software and Services rendered are non-refundable. A 15% restocking fee will be charged for all products returned.

## **BILLING**

You agree to provide complete and accurate billing and contact information. This information includes Your legal company name, street address, e-mail address, and name and telephone number of an authorized billing contact. You agree to update this information within 30 days of any change to it.

If You believe billing for Software and Services is incorrect, You must contact System Solutions LLC in writing within 90 days of the date of the invoice containing the amount in question to be eligible to receive an adjustment or credit.

## **PAST DUE INVOICES & COLLECTION COSTS**

All invoices past due for more than 30 days will accrue interest at the rate of 1 ½% per month or such lesser rate if required by law. System Solutions LLC reserves the right to suspend or terminate this Agreement and suspend access to Software and Services for past due invoices. If Software and Services are continued, You will continue to be charged for Software and Services during any period of suspension.

You agree to pay all costs and attorney's fees incurred by System Solutions LLC to collect unpaid or past due invoices.

## **CONFIDENTIALITY**

During the course of this Agreement, each party acknowledges and agrees that it may be given access to Proprietary Information. "**Proprietary Information**" means, collectively, Confidential Information and Trade Secrets.

Except as an authorized representative of each party may otherwise consent in writing, neither party shall disclose, duplicate or publish at any time any Proprietary Information, knowledge or data of the other that may be obtained during the term of this Agreement, including, but not limited to, Proprietary Information relating to programs, formulas, processes, methods, machines, products, data, inventions, discoveries, or any proprietary matter. Each party's obligations hereunder shall be satisfied if it uses the same degree of care as it does for its own information of a similar character, which shall not be less than reasonable efforts consistent with the maintenance of each party's rights in the Proprietary Information. Each party further agrees not to: (i) disassemble, decompile or reverse engineer any of the other party's Proprietary Information, (ii) attempt any unauthorized access to or compilation of any of the other party's Proprietary Information, and (iii) duplicate or reproduce any of the other party's Proprietary Information except as necessary to perform this Agreement. These provisions shall not apply to either party's Proprietary Information: (i) which becomes public knowledge without the fault of the receiving party, (ii) which becomes available to the receiving party through a third party, (iii) which was independently developed by the receiving party without use of the Proprietary Information, or (iv) of which the other was aware prior to execution of this Agreement.

Neither party shall use any Proprietary Information received from the other party except as expressly permitted under this Agreement, or as necessary to perform its duties hereunder, and neither party shall disclose any such Proprietary Information to any third party (except the party's affiliates and/or agents and only on a "need to know" basis and subject to their being bound to protect the confidentiality of the Proprietary Information) without the other party's prior written consent, unless required to do so by court order or other operation of law, and then only subject to prompt notice to the non-disclosing party and permitting the non-disclosing party, at its own cost and expense, the opportunity to limit, quash or extend the demand on a timely basis. Unless such demand has been timely limited, quashed or extended, the receiving party will thereafter be entitled to comply with the demand to the extent required by law. Each party hereto shall institute internal operating procedures to assure limited access and use of Proprietary Information consistent with this Agreement, and shall exercise due care to monitor and ensure compliance with this Agreement.

The nondisclosure and confidentiality obligations set forth shall survive termination of this Agreement for any reason and shall remain in effect with respect to Trade Secrets for as long as the owner of such information is entitled to protection thereof and, with respect to Confidential Information, for a period of five (5) years after termination hereof.

The parties acknowledge that unauthorized use by a party of the other party's Proprietary Information will diminish the value of such information and will cause substantial and irreparable damage to the party whose Proprietary Information was improperly disclosed, and that the remedies generally available at law may be inadequate. Accordingly, a breach of this Section shall entitle the non-breaching party to seek and recover equitable relief to protect its interest herein, including injunctive relief, as well as money damages, costs, and attorney's fees.

All work performed in connection with this Agreement shall be performed by System Solutions LLC as an independent contractor and not as Your agent. You acknowledges that System Solutions LLC retains and owns all intellectual property rights associated with any work or services performed under this Agreement including, but not limited to, all trademarks, service marks, trade names, copyrights, source codes, code writing, software and hardware modifications, add-ons, and customization.

### **LIMITED WARRANTY**

System Solutions LLC warrants that all Software and Services will be created or performed in a professional and workman like manner in accordance with general industry standards. THIS WARRANTY IS GIVEN IN LIEU OF ALL OTHER EXPRESSED AND IMPLIED WARRANTIES. NO OTHER WARRANTIES APPLY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE. THIS LIMITED WARRANTY IS ALSO SUBJECT TO THE DISCLAIMER OF ALL OTHER WARRANTIES IN SECTION 11.

### **DISCLAIMER OF WARRANTY**

EXCEPT AS STATED IN SECTION 10, NO OTHER WARRANTIES APPLY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. ALL SERVICES ARE PROVIDED "AS IS" AND "WHERE IS" AND EACH PARTY DISCLAIMS ALL WARRANTIES, WHETHER WRITTEN OR ORAL, EXPRESS OR IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE. SYSTEM SOLUTIONS LLC DOES NOT WARRANT THAT THE SOFTWARE OR SERVICES, OR ANY THIRD PARTY PRODUCTS ARE ERROR-FREE, OR WILL OPERATE IN AN UNINTERRUPTED MANNER OR IN COMBINATION WITH OTHER SOFTWARE PRODUCTS. THERE IS NO WARRANTY FOR THIRD PARTY SOFTWARE OR THIRD PARTY HARDWARE PROVIDED BY SYSTEM SOLUTIONS LLC; AND EACH SUCH THIRD PARTY SOFTWARE OR THIRD PARTY HARDWARE SHALL BE GOVERNED BY THE WARRANTIES OFFERED BY THE APPLICABLE THIRD PARTY UNDER THE TERMS OF THE AGREEMENT BETWEEN YOU AND SUCH THIRD PARTY.

### **LIMITATION OF REMEDY**

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY DAMAGES RELATING TO LOST PROFITS OR LOSS OF BUSINESS OPPORTUNITY) EVEN IF THE PARTY CLAIMING SUCH DAMAGES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

UPON ANY FAILURE OF ANY MICROSOFT DYNAMICS SOFTWARE, OR SYSTEM SOLUTIONS LLC SOFTWARE TO CONFORM TO THE WARRANTY SET FORTH HEREIN, OR SHOULD SYSTEM SOLUTIONS LLC FAIL TO PERFORM ANY OF ITS OBLIGATIONS HEREIN (INCLUDING SOFTWARE SUPPORT SERVICE OBLIGATIONS), CUSTOMER'S SOLE AND EXCLUSIVE REMEDY SHALL BE FOR SYSTEM SOLUTIONS TO: A) ALERT MICROSOFT OF ANY PROGRAMMING ERRORS IN THE MICROSOFT DYNAMICS SOFTWARE, OR B) ALERT ANY 3RD PARTY SOFTWARE PROVIDER OF ANY PROGRAMMING ERRORS IN THEIR SOFTWARE, OR C) REPAIR OR REPLACE ANY DEFECTIVE SYSTEM SOLUTIONS LLC SOFTWARE, AS PROVIDED IN THIS AGREEMENT EXCEPT AS OTHERWISE PROVIDED HEREIN, AND IN LIEU OF ANY AND ALL OTHER WARRANTIES OR RIGHTS,

SYSTEM SOLUTIONS LLC'S AGGREGATE LIABILITY FOR ALL ACTIONS AND CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE AGGREGATE AMOUNTS PAID TO SYSTEM SOLUTIONS LLC BY YOU FOR SOFTWARE AND SERVICES PURSUANT TO THIS AGREEMENT OVER THE SIX (6) MONTH PERIOD PRECEDING THE DATE OF THE APPLICABLE CLAIM.

YOU ACKNOWLEDGE THAT THE LIMITATION OF LIABILITIES AND DISCLAIMERS OF WARRANTY CONTAINED HEREIN CONSTITUTE AN AGREED UPON ALLOCATION OF RISK BETWEEN THE PARTIES, HAVE BEEN FACTORED INTO PRICING OF THE SOFTWARE AND SERVICES, AND ARE AN ESSENTIAL ELEMENT OF THE BARGAIN BETWEEN THE PARTIES.

## **TERM AND TERMINATION**

This Agreement shall become effective as of the date You start using System Solutions LLC Software or Services and shall continue in full force and effect until it is terminated by one of the parties pursuant to the provisions of this Agreement.

Either party may terminate the Agreement effective at the end of any calendar month with written notice received not less than thirty (30) days before the termination date.

System Solutions LLC may terminate this agreement immediately if You fail to make payment within 5 days of its due date.

## **ASSIGNMENT**

For the purposes of this Section, an affiliated corporation, partnership or venture is an entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the entity specified (an "*Affiliate*"). Neither party may, without the prior written consent of the other party, assign or transfer this Agreement nor any obligation incurred hereunder. Notwithstanding the foregoing, System Solutions LLC may assign this Agreement to any present or future Affiliate (including any subsidiary or affiliated entity thereof), or to any third party which by purchase, lease, outsourcing agreement or otherwise, assumes the operation, administration and/or management of any substantial portion of the business of System Solutions LLC affected by this Agreement, provided that such assignee shall succeed to all of System Solutions LLC rights and obligations hereunder. System Solutions LLC shall give You written notice of any assignment, including the effective date of the Assignment and the entity or entities receiving rights and assuming obligations

under the Agreement. Any attempt to assign this Agreement in contravention of this Section shall be void and of no force and effect.

### **SEVERABILITY**

If any one or more of the provisions contained herein shall for any reason be held to be unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement, but this Agreement shall then be construed as if such unenforceable provision or provisions had never been contained herein.

### **NO WAIVER**

A waiver of a breach or default under this Agreement shall not be waiver of any subsequent breach or default hereunder. Failure of either party to enforce compliance with any term or condition of this Agreement shall not constitute a waiver of such term or condition.

### **ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties and supersedes any prior or contemporaneous oral or written representations with regard to the subject matter hereof. This Agreement excluding any price increase notices from System Solutions LLC, which shall not require Your acceptance, may not be amended, modified or superseded except by writing, signed or initialed by both parties.

### **JURISDICTION AND VENUE**

All suits, proceedings and other actions relating to, arising out of or in connection with this Agreement will be submitted to the exclusive, in personam jurisdiction of the courts of the State of Connecticut in the United States of America regardless of choice of laws or conflicts of laws. Venue for all such suits, proceedings and other actions will be exclusively in the courts located in the State of Connecticut in the United States of America. Connecticut law will apply to all suits, proceedings, and other actions. You hereby waive any claims against or objections to such in personam jurisdiction and venue. This provision shall apply without regard to the United Nations Conventions on the International Sale of Goods (CISG) and the CISG is excluded from application to this Agreement.

### **NOTICE**

Any notices or demands or other communications which under the terms of this Agreement may be given or made by You shall be in writing and to:

ATTN: Director Business Development  
System Solutions, LLC  
80 Eastern Blvd Ste 2  
Glastonbury, CT 06033

### **DISPUTE RESOLUTION**

The parties agree to make reasonable efforts to resolve any dispute arising between the parties prior to pursuing litigation. Such efforts shall include the escalation of the dispute to a senior management executive of each party who has full authority to resolve the dispute on behalf of the party. In the event that You bring litigation or a lawsuit for alleged breach of this Agreement, and You do not prevail in the

litigation, You agree that System Solutions LLC shall be paid its reasonable attorneys' fees and costs for the defending the litigation or lawsuit.