

Subscription Services Agreement

This agreement is between Innovative Software Solutions, Inc., a Texas corporation (**Innovative Software Solutions**), and the customer agreeing to these terms (**Customer**). This agreement is dated as of the date of last signature below.

1. **SOFTWARE-AS-A-SERVICE.** This agreement provides Customer access to and usage of an Internet based software service as specified on an order (**Service**). Setup services may also be performed under the terms of this agreement.
2. **USE OF SERVICE.**
 - a. **Customer Owned Data.** All data uploaded by Customer remains the property of Customer, as between Innovative Software Solutions and Customer (**Customer Data**). Customer grants Innovative Software Solutions the right to use the Customer Data solely for purposes of performing under this agreement. During the term of this agreement, Customer may export its Customer Data as allowed by functionality within the Service.
 - b. **Contractor Access and Usage.** Customer may allow its contractors to access the Services in compliance with the terms of this agreement, which access must be for the sole benefit of Customer. Customer is responsible for the compliance with this agreement by its contractors.
 - c. **Customer Responsibilities.** Customer (i) must keep its passwords secure and confidential; (ii) is solely responsible for Customer Data and all activity in its account in the Service; (iii) must use commercially reasonable efforts to prevent unauthorized access to its account, and notify Innovative Software Solutions promptly of any such unauthorized access; and (iv) may use the Service only in accordance with the Service's online help files and applicable law.
 - d. **Innovative Software Solutions Support.** Innovative Software Solutions must provide customer support for the Service under the terms of Innovative Software Solutions' Customer Support Policy (**Support**), which is located at <http://www.akoretax.com/support.shtml> and is incorporated into this agreement for all purposes.
 - e. **Trial.** If Customer has not purchased a subscription for a fee, Customer may access the Service for a 30-day trial period (unless extended by Innovative Software Solutions). The Service is provided AS IS, with no warranty during this time period. All Customer data will be deleted after the trial period, unless Customer converts its account to a paid Service.
3. **SERVICE LEVEL AGREEMENT & WARRANTY.**
 - a. **Warranty.** Innovative Software Solutions warrants to Customer: (i) that commercially reasonable efforts will be made to maintain the online availability of the Service for a minimum of availability in any given month (*excluding* maintenance outages, force majeure, and outages that result from any Customer technology issues); (ii) the functionality or features of the Service may change but will not materially decrease during any paid term; and (iii) that the Support may change but will not materially degrade during any paid term.
 - b. **LIMITED REMEDY.** Customer's exclusive remedy and Innovative Software Solutions' sole obligation for its failure to meet the warranty in a(i) above will be for Innovative Software Solutions to provide a credit for the applicable month as provided in the chart above (if this agreement is not renewed, then a refund), for the month; provided that Customer notifies Innovative Software Solutions of such breach within 30 days of the end of that month.
 - c. **DISCLAIMER.** INNOVATIVE SOFTWARE SOLUTIONS DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE AND FITNESS FOR A PARTICULAR PURPOSE. WHILE INNOVATIVE SOFTWARE SOLUTIONS TAKES REASONABLE PHYSICAL, TECHNICAL AND ADMINISTRATIVE MEASURES TO SECURE THE SERVICE, INNOVATIVE SOFTWARE SOLUTIONS DOES NOT GUARANTEE THAT THE SERVICE CANNOT BE COMPROMISED. CUSTOMER UNDERSTANDS THAT THE SERVICE MAY NOT BE ERROR FREE, AND USE MAY BE INTERRUPTED. CUSTOMER ASSUMES THE RESPONSIBILITY FOR THE ACCURACY AND TIMELINESS OF EACH TAX RETURN, AND SHOULD REVIEW EACH RETURN BEFORE FILING.
4. **PAYMENT.** Customer must pay all fees as specified on the order, but if not specified then within 15 days of receipt of an invoice. Customer is responsible for the payment of all sales, use, withholding, VAT and other similar taxes. This agreement contemplates one or more orders for the Service, which orders are governed by the terms of this agreement.
5. **MUTUAL CONFIDENTIALITY.**
 - a. **Definition of Confidential Information.** Confidential Information means all non-public information disclosed by a party (**Discloser**) to the other party (**Recipient**), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure (**Confidential Information**). Innovative Software Solutions' Confidential Information includes without limitation the Service (including without limitation the Service user interface design and layout, and pricing information).

- b. **Protection of Confidential Information.** The Recipient must use the same degree of care that it uses to protect the confidentiality of its own confidential information (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Discloser for any purpose outside the scope of this agreement. The Recipient must make commercially reasonable efforts to limit access to Confidential Information of Discloser to those of its employees and contractors who need such access for purposes consistent with this agreement and who have signed confidentiality agreements with Recipient no less restrictive than the confidentiality terms of this agreement.
- c. **Exclusions.** Confidential Information *excludes* information that: (i) is or becomes generally known to the public without breach of any obligation owed to Discloser, (ii) was known to the Recipient prior to its disclosure by the Discloser without breach of any obligation owed to the Discloser, (iii) is received from a third party without breach of any obligation owed to Discloser, or (iv) was independently developed by the Recipient without use or access to the Confidential Information. The Recipient may disclose Confidential Information to the extent required by law or court order, but will provide Discloser with advance notice to seek a protective order.
6. **INNOVATIVE SOFTWARE SOLUTIONS PROPERTY.**
- a. **Reservation of Rights.** The software, workflow processes, user interface, designs, know-how, and other technologies provided by Innovative Software Solutions as part of the Service are the proprietary property of Innovative Software Solutions and its licensors, and all right, title and interest in and to such items, including all associated intellectual property rights, remain only with Innovative Software Solutions. Customer may not remove or modify any proprietary marking or restrictive legends in the Service. Innovative Software Solutions reserves all rights unless expressly granted in this agreement.
- b. **Restrictions.** Customer *may not* (i) sell, resell, rent or lease the Service or use it in a service provider capacity; (ii) use the Service to store or transmit infringing, unsolicited marketing emails, libelous, or otherwise objectionable, unlawful or tortious material, or to store or transmit material in violation of third-party rights; (iii) interfere with or disrupt the integrity or performance of the Service; (iv) attempt to gain unauthorized access to the Service or their related systems or networks; (v) reverse engineer the Service; or (vi) access the Service to build a competitive service or product, or copy any feature, function or graphic for competitive purposes.
- c. **Aggregate Data.** During and after the term of this agreement, Innovative Software Solutions may use non-personally identifiable Customer Data for purposes of enhancing the Service, aggregated statistical analysis, technical support and other business purposes.
7. **TERM AND TERMINATION.**
- a. **Term.** This agreement continues until all orders have expired.
- b. **Mutual Termination for Material Breach.** If either party is in material breach of this agreement, the other party may terminate this agreement at the end of a written 30-day notice/cure period, if the breach has not been cured.
- c. **Return of Customer Data.**
- *Within 60-days after termination*, upon request Innovative Software Solutions will make the Service available for Customer to export Customer Data as provided in Section 2(a).
 - *After such 60-day period*, Innovative Software Solutions has no obligation to maintain the Customer Data and may destroy it.
- d. **Return Innovative Software Solutions Property Upon Termination.** Upon termination of this agreement for any reason, Customer must pay Innovative Software Solutions for any unpaid amounts, and destroy or return all property of Innovative Software Solutions. Upon Innovative Software Solutions' request, Customer will confirm in writing its compliance with this destruction or return requirement.
- e. **Suspension for Violations of Law.** Innovative Software Solutions may temporarily suspend the Service or remove the applicable Customer Data, or both, if it in good faith believes that, as part of using the Service, Customer has violated a law. Innovative Software Solutions will attempt to contact Customer in advance.
8. **LIABILITY LIMIT.** Innovative Software Solutions is not liable for any indirect, special, incidental or consequential damages arising out of or related to this agreement (including, without limitation, an incorrect tax due date calculation, due date alert failure, or any governmental penalty or interest or charge; loss of data, records or information, and lost profits/revenues or anticipated costs savings), even if it knows of the possibility of such damage or loss. Innovative Software Solutions' total liability arising out of or related to this agreement (whether in contract, tort or otherwise) does not exceed the amount paid by Customer within the 12-month period prior to the event that gave rise to the liability.
9. **GENERAL INDEMNITY.** If any third party brings a claim against Innovative Software Solutions related to Customer's acts, omissions, data, or information within the Service or use of the Service, Customer must defend, indemnify, and hold Innovative Software Solutions harmless from and against all damages, losses, and expenses of any kind (including reasonable legal fees and costs) related to such claim.

10. **GOVERNING LAW AND FORUM.** This agreement is governed by the laws of the State of Texas (without regard to conflicts of law principles) for any dispute between the parties or relating in any way to the subject matter of this agreement. Any suit or legal proceeding must be exclusively brought in the federal or state courts for Bexar County, TX, and Customer submits to this personal jurisdiction and venue. Nothing in this agreement prevents either party from seeking injunctive relief in a court of competent jurisdiction. The prevailing party in any litigation is entitled to recover its attorneys' fees and costs from the other party.
11. **OTHER TERMS.**
- a. **Entire Agreement and Changes.** This agreement and the order constitute the entire agreement between the parties and supersede any prior or contemporaneous negotiations or agreements, whether oral or written, related to this subject matter. Customer is not relying on any representation concerning this subject matter, oral or written, not included in this agreement. No representation, promise or inducement not included in this agreement is binding. No modification of this agreement is effective unless both parties sign it, and no waiver is effective unless the party waiving the right signs a waiver in writing.
 - b. **No Assignment.** Neither party may assign or transfer this agreement or an order to a third party, except that this agreement with all orders may be assigned, without the consent of the other party, as part of a merger, or sale of substantially all the assets, of a party.
 - c. **Independent Contractors.** The parties are independent contractors with respect to each other.
 - d. **Enforceability and Force Majeure.** If any term of this agreement is invalid or unenforceable, the other terms remain in effect. Innovative Software Solutions is not liable for any delay or failure to perform any obligation under this agreement where the delay or failure results from any cause beyond our reasonable control and whether foreseeable or not, including acts of God, labor disputes or other industrial disturbances, electrical or power outages, utilities or other telecommunications failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.
 - e. **Money Damages Insufficient.** Any breach by a party of this agreement or violation of the other party's intellectual property rights could cause irreparable injury or harm to the other party. The other party may seek a court order to stop any breach or avoid any future breach.
 - f. **No Additional Terms.** Innovative Software Solutions rejects additional or conflicting terms of any Customer form-purchasing document.
 - g. **Order of Precedence.** If there is an inconsistency between this agreement and an order, the order prevails.
 - h. **Survival of Terms.** Any terms that by their nature survive termination of this agreement for a party to assert its rights and receive the protections of this agreement, will survive. The UN Convention on Contracts for the International Sale of Goods does not apply.
 - i. **Feedback.** If Customer provides feedback or suggestions about the Service, then Innovative Software Solutions (and those it allows to use its technology) may use such information without obligation to Customer.