

Software Systems, Inc. Terms of Use

1. User's Acknowledgment and Acceptance of Terms

Software Systems, Inc. (referred to as "us" or "we") provides the Software Systems, Inc. FMS Employee Portal site and related services (together referred to as this "site") subject to your compliance with all the terms, conditions, and notices contained or referenced herein (the "Terms of Use"), as well as any other written agreement between us (or your company) or between us and your employer.

BY COMPLETING THE REGISTRATION PROCESS AND/OR USING THIS SITE, YOU AGREE TO BE BOUND BY THESE TERMS OF USE. IF YOU DO NOT WISH TO BE BOUND BY THE THESE TERMS OF USE, PLEASE EXIT THE SITE NOW. YOUR REMEDY FOR DISSATISFACTION WITH THIS SITE, OR ANY PRODUCTS, SERVICES, CONTENT, OR OTHER INFORMATION AVAILABLE ON OR THROUGH THIS SITE, IS TO STOP USING THE SITE AND/OR THOSE PARTICULAR PRODUCTS OR SERVICES. YOUR AGREEMENT WITH US REGARDING COMPLIANCE WITH THESE TERMS OF USE BECOMES EFFECTIVE IMMEDIATELY UPON COMMENCEMENT OF YOUR USE OF THIS SITE.

These Terms of Use are effective as of July 1, 2022. We reserve the right to change these Terms of Use from time to time without notice to you. You acknowledge and agree that it is your responsibility to review this site and these Terms of Use periodically and to be aware of any modifications. Your continued use of this site after such modifications will constitute your acknowledgement of the modified Terms of Use and agreement to abide and be bound by the modified Terms of Use.

As used in these Terms of Use, references to our "Affiliates" include our owners, subsidiaries, affiliated companies, officers, directors, suppliers and partners, and includes (without limitation) all parties involved in creating, producing, and/or delivering this site and/or its contents.

2. Description of Services

We make limited services available on this site including an employee portal assessable to our participating clients and our clients' employees to access employee information, including job description and status, payroll history and records, and certain limited documents including paystubs and W-2's. Fees for the various services are set out in the separate written agreement between us (or your company) or between us and your employer. You are solely responsible for providing, at your own expense, all equipment necessary to use the services, including a computer and modem; and your own Internet access (including payment of telephone service fees associated with such access).

We reserve the sole right to either modify or discontinue the site, including any features therein, at any time with or without notice to you. We shall not be liable to you or any third party should we exercise such right. Modifications may include, but are not limited to, the addition of fee-based services, changes to the extent of information assessable, or limitations on the allowable file sizes. Any new features that augment or enhance the then-current services on this site shall also be subject to these Terms of Use.

You understand and agree that temporary interruptions of the services available through this site may occur as normal events. You further understand and agree that we have has no control over third party networks you may access in the course of the use of this site, and therefore, delays and disruption of other network transmissions are completely beyond our control.

You understand and agree that the services available on this site are provided "AS IS", that the information available

is uploaded from the client employer (the user's employer) records, and that we assume no responsibility for the accuracy, timeliness, deletion, mis-delivery or failure to store the information or any user communications or personalization settings.

3. Registration Data and Privacy

In order to access some of the services on this site, you will require a separate account and password that can be obtained by completing our online registration form, which requests certain information and data ("Registration Data") and maintaining and updating your Registration Data as required. By registering, you agree that all information provided in the Registration Data is true and accurate and that you will maintain and update this information as required in order to keep it current, complete and accurate.

You also grant us the right to disclose to third parties certain Registration Data about you. The information we obtain through your use of this site, including your Registration Data, is subject to our Privacy Policy, which is specifically incorporated by reference into these Terms of Use.

4. Payment of Fees

If you subscribe to a service on this site that requires payment of a fee, you agree to pay all fees associated with such service. Other than the employer subscriber fees payable to us for enabling the FMS Employee Portal and making it available for employee subscribers use, currently there are no other services available on the site that requires payment of a fee. To the extent any services fee component is added, we will update the Terms of Use accordingly.

5. Conduct on Site

Your use of the site is subject to all applicable laws and regulations, and you are solely responsible for the contents of your communications through the site. By posting information in or otherwise using any communications service or other interactive service that may be or become available to you on or through this site, you agree that you will not upload, share, post, or otherwise distribute or facilitate distribution of any content — including text, communications, software, images, sounds, data, or other information that:

- a. Is unlawful, threatening, abusive, harassing, defamatory, libelous, deceptive, fraudulent, invasive of another's privacy, tortious, contains explicit or graphic descriptions or accounts of sexual acts (including but not limited to sexual language of a violent or threatening nature directed at another individual or group of individuals), or otherwise violates our rules or policies;
- b. Victimizes, harasses, degrades, or intimidates an individual or group of individuals on the basis of religion, gender, sexual orientation, race, ethnicity, age, or disability;
- c. Infringes on any patent, trademark, trade secret, copyright, right of publicity, or other proprietary right of any party;
- d. Constitutes unauthorized or unsolicited advertising, junk or bulk e-mail (also known as "spamming"), chain letters, any other form of unauthorized solicitation, or any form of lottery or gambling;
- e. Contains software viruses or any other computer code, files, or programs that are designed or intended to disrupt, damage, or limit the functioning of any software, hardware, or telecommunications equipment or to damage or obtain unauthorized access to any data or other information of any third party; or
- f. Impersonates any person or entity, including any of our employees or representatives.

We neither endorse nor assume any liability for the contents of any material uploaded or submitted by client employers or third party users of the site. We generally do not pre-screen, monitor, or edit the content posted by users of communications services or other interactive services that may be available on or through this site. However, we and our agents have the right at their sole discretion to remove any content that, in our judgment, does not comply with these Terms of Use and any other rules of user conduct for our site, or is otherwise harmful, objectionable, or inaccurate. We are not responsible for any failure or delay in removing such content. You hereby consent to such removal and waive any claim against us arising out of such removal of content.

In addition, you may not use your account to breach security of another account or attempt to gain unauthorized access to another network or server. Not all areas of the site may be available to you or other authorized users of the site. You shall not interfere with anyone else's use and enjoyment of the site or other similar services. Users who violate systems or network security may incur criminal or civil liability.

You agree that we may at any time, and at our sole discretion, terminate your access to the site without prior notice to you for violating any of the above provisions. In addition, you acknowledge that we will cooperate fully with investigations of violations of systems or network security at other sites, including cooperating with law enforcement authorities in investigating suspected criminal violations.

6. Third Party Sites and Information

This site may link you to other sites on the Internet or otherwise include references to information, documents, software, materials and/or services provided by other parties. These other sites and parties are not under our control, and you acknowledge that we are not responsible for the accuracy, copyright compliance, legality, or any other aspect of the content of such sites, nor are we responsible for errors or omissions in any references to other parties or their products and services. The inclusion of such a link or reference is provided merely as a convenience and does not imply endorsement of, or association with, the site or party by us, or any warranty of any kind, either express or implied.

7. Intellectual Property Information

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For purposes of these Terms of Use, "content" is defined as any information, communications, software, photos, video, graphics, sounds, and other material and services that can be viewed by users on our site.

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All custom graphics, icons, logos and service names are [registered] trademarks, trademarks or service marks of Software Systems, Inc. or its Affiliates. All other trademarks or service marks are property of their respective owners. Nothing in these Terms of Use grants you any right to use any trademark, service mark, logo, and/or the name of Software Systems, Inc. or its Affiliates.

8. User's Materials

The information accessible from the FMS Employee Portal by an employee user is information provided by the employer and will be treated as confidential. Subject to our Privacy Policy, any communication or material that you transmit to this site or to us, whether by electronic mail or other means, for any reason, will be treated as nonconfidential and nonproprietary.

Please do not submit confidential or proprietary information to us unless we have mutually agreed in writing otherwise. We are also unable to accept your unsolicited ideas or proposals, so please do not submit them to us in any circumstance.

We respect the intellectual property of others, and we ask you to do the same. To the extent your access to the FMS Employee Portal allows for any posting on this site by users, if you or any user of this site believes its copyright, trademark or other property or privacy rights have been infringed by a posting on this site, you or the user should send notification to our Designated Agent (as identified below) immediately. To be effective, the notification must include:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
2. Identification of the copyrighted work claimed to have been infringed;
3. Information reasonably sufficient to permit us to contact the complaining party, such as address, telephone number and, if available, an electronic mail address at which the complaining party may be contacted;
4. Identification of the material that is claimed to be infringing or to be subject to infringing activity and that is to be removed and information reasonably sufficient to permit us to locate the materials;
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, agent, or the law; and
6. A statement that the information in the notification is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringing.

Pursuant to the Digital Millennium Copyright Act, 17 U.S.C.A. Sec. 512(c), our Designated Agent for Notice of claims of copyright infringement can be reached as indicated below. Service of repeat infringers of copyright or of users about whom repeat claims of copyright infringement are received will be terminated.

Designated Agent for Claimed Infringement:

Software Systems, Inc.

Attn: SSI Customer Support

432 South Emerson Avenue, Suite 200, Greenwood, Indiana 46143

support@softwaresysinc.com

You acknowledge and agree that upon receipt of a notice of a claim of copyright infringement, we may immediately remove the identified materials from our site without liability to you or any other party and that the claims of the complaining party and the party that originally posted the materials will be referred to the United States Copyright Office for adjudication as provided in the Digital Millennium Copyright Act.

9. Disclaimer of Warranties

ALL MATERIALS AND SERVICES ON THIS SITE ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THE WARRANTY OF NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, WE MAKE NO WARRANTY THAT: (A) THE SERVICES AND MATERIALS WILL MEET YOUR REQUIREMENTS, (B) THE SERVICES AND MATERIALS WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, (C) THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR MATERIALS WILL BE EFFECTIVE, ACCURATE OR RELIABLE, OR (D) THE QUALITY OF ANY PRODUCTS, SERVICES, OR INFORMATION ACQUIRED OR OBTAINED BY YOU FROM THE SITE FROM US OR OUR AFFILIATES WILL MEET YOUR EXPECTATIONS OR BE FREE FROM MISTAKES, ERRORS OR DEFECTS.

THIS SITE COULD INCLUDE TECHNICAL OR OTHER MISTAKES, INACCURACIES OR TYPOGRAPHICAL ERRORS. WE MAY MAKE CHANGES TO THE MATERIALS AND SERVICES AT THIS SITE AT ANY TIME WITHOUT NOTICE. THE MATERIALS OR SERVICES AT THIS SITE MAY BE OUT OF DATE, AND WE MAKE NO COMMITMENT TO UPDATE SUCH MATERIALS OR SERVICES.

THE USE OF THE SERVICES OR THE DOWNLOADING OR OTHER ACQUISITION OF ANY MATERIALS THROUGH THIS SITE IS DONE AT YOUR OWN DISCRETION AND RISK AND WITH YOUR AGREEMENT THAT YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR LOSS OF DATA THAT RESULTS FROM SUCH ACTIVITIES.

SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

10. Limitation of Liability

Your exclusive remedy and our entire liability, if any, for any claims arising out of these Terms of Use and your use of this site shall be limited to [your discontinuation of use of the site.

IN NO EVENT SHALL WE OR OUR AFFILIATES BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND, OR ANY DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THOSE RESULTING FROM LOSS OF USE, DATA OR PROFITS, WHETHER OR NOT WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS SITE [OR OF ANY WEB SITE REFERENCED OR LINKED TO FROM THIS SITE].

11. Indemnification

Upon a request by us, you agree to defend, indemnify, and hold us and our Affiliates harmless from all liabilities, claims, and expenses, including attorney’s fees, that arise from your use or misuse of this site. We reserve the right, at our own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with us in asserting any available defenses.

12. Use of Site and Storage of Material

You acknowledge that we may establish general practices and limits concerning use of the services available on our site, including without limitation the maximum number of days that uploaded content will be retained on the site, the

maximum disk space that will be allotted or our servers on your behalf, and the maximum number of times (and the maximum duration for which) you may access the services in a given period of time. You agree that we have no responsibility or liability for the deletion or failure to store any content maintained or transmitted on or through this site. You acknowledge that we reserve the right to log off accounts which an employer client has not paid a subscription fee or has elected to otherwise discontinue or terminate the service. You further acknowledge that we reserve the right to change these general practices and limits at any time, in our sole discretion, with or without notice.

We provide storage space and access for material through our site. For purposes of these Terms of Use, “material” refers to the limited employee related information made available by our participating clients for access by the client employers and its employees (users) as described in Section 2 of these Terms of Use, and all forms of communication that we may allow. You may communicate directly with your participating employer through the site if you have questions regarding the extent or correctness of the information available and to which you have access through this site. These communications are not with us and we assume no responsibility for those communications. To the extent any publishing capabilities are added to the site, you may not use this site to publish material that we determine, at our sole discretion, to be unlawful, indecent, or objectionable, or which violates the restrictions described in “Your Conduct on the Site” above. However, in such event if complaints are received regarding language or content contained in your online account or in your inquiries to the site, we may, at our sole discretion, remove the language or content hosted on our servers and terminate your access to the service. We may also suspend the account, restrict access to it, or remove content from it if necessary or appropriate.

The accounts of our users operate on shared resources. Excessive use or abuse of these shared network resources by one user may have a negative impact on all other users. Misuse of network resources in a manner that impairs network performance, including excessive consumption of CPU time, memory, disk space, and session time, is prohibited and may result in termination of your account or limitation of your activities.

This site is not designed or intended to be used as a disaster recovery facility or as an emergency data storage facility. Although we take reasonable precautions to preserve and protect the material uploaded to the site, you should not rely on the site as your only storage facility. You agree not to hold us liable for any damage to, any deletion of or any failure to store your files, data or Registration Data.

13. Security and Password

You are solely responsible for maintaining the confidentiality of your password and account and for any and all statements made and acts or omissions that occur through the use of your password and account, including any communications sent. Therefore, you must take steps to ensure that others do not gain access to your password and account. Our personnel will never ask you for your password. You may not transfer or share your account with anyone, and we reserve the right to immediately terminate your account in the event of any unauthorized transfer or sharing thereof.

14. International Use

Although this site may be accessible worldwide, we make no representation that materials on this site are appropriate or available for use in locations outside the United States, and accessing them from territories where their contents are illegal is prohibited. Those who choose to access this site from other locations do so on their own initiative and are responsible for compliance with local laws. Any offer for any product, service, and/or information made in connection with this site is void where prohibited.

15. Termination of Use

You agree that we may, in our sole discretion, terminate or suspend your access to all or part of the site with or without

notice and for any reason, including, without limitation, breach of these Terms of Use. Any suspected fraudulent, abusive or illegal activity may be grounds for terminating your relationship and may be referred to appropriate law enforcement authorities.

Upon termination or suspension, regardless of the reasons therefore, your right to use the services available on this site immediately ceases, and you acknowledge and agree that we may immediately deactivate or delete your account and all related information and files in your account and/or bar any further access to such files or this site. We shall not be liable to you or any third party for any claims or damages arising out of any termination or suspension or any other actions taken by us in connection therewith. Sections 1, 3, 5–12, and 15–17 of these Terms of Use[, as well as your liability for any unpaid fees, if any] shall survive any termination.

16. Governing Law

This site (excluding any linked sites) is controlled by us from our offices within the State of Indiana, United States of America. It can be accessed from all 50 states, as well as from other countries around the world. As each of these places has laws that may differ from those of Indiana, by accessing this site both of us agree that the statutes and laws of the State of Indiana, without regard to the conflicts of laws principles thereof, will apply to all matters relating to the use of this site and the services available through this site. Each of us agrees and hereby submits to the exclusive personal jurisdiction and venue of the courts of Marion County and the United States District Court for the Southern District of Indiana with respect to such matters.

17. Notices

All notices to a party shall be in writing and shall be made either via e-mail or conventional mail. Notices to us must be sent to the attention of Customer Service at support@softwaresysinc.com, if by e-mail, or at Software Systems, Inc., Attn: SSI Customer Service, 432 South Emerson Avenue, Suite 200, Greenwood, Indiana 46143, if by conventional mail. Notices to you may be sent either to the e-mail address supplied for your account or to the address supplied by you as part of your Registration Data. In addition, we may broadcast notices or messages through the site to inform you of changes to the site or other matters of importance, and such broadcasts shall constitute notice to you.

Any notices or communication under these Terms of Use will be deemed delivered to the party receiving such communication (1) on the delivery date if delivered personally to the party; (2) two business days after deposit with a commercial overnight carrier, with written verification of receipt; (3) five business days after the mailing date, if sent by US mail, return receipt requested; (4) on the delivery date if transmitted by confirmed facsimile; or (5) on the delivery date if transmitted by confirmed e-mail.

18. Entire Agreement

These terms and conditions constitute the entire agreement and understanding between us concerning the subject matter hereof and supersedes all prior agreements and understandings of the parties with respect thereto. These Terms of Use may NOT be altered, supplemented, or amended by the use of any other document(s). Any attempt to alter, supplement or amend this document shall be null and void unless otherwise agreed to in a written agreement signed by you (or your company) or your employer and us. To the extent that anything in or associated with this site is in conflict or inconsistent with these Terms of Use, these Terms of Use shall take precedence.

19. Miscellaneous

In any action to enforce these Terms of Use, the prevailing party will be entitled to costs and attorneys' fees. Any cause of action brought by you against us or our Affiliates must be instituted within one year after the cause of action

arises or be deemed forever waived and barred.

You may not assign your rights and obligations under these Terms of Use to any party, and any purported attempt to do so shall be null and void. We may freely assign our rights and obligations under these Terms of Use.

You agree not to sell, resell, reproduce, duplicate, copy or use for any commercial purposes any portion of this site, or use of or access to this site.

In addition to any excuse provided by applicable law, we shall be excused from liability for non-delivery or delay in delivery of services available through our site arising from any event beyond our reasonable control, whether or not foreseeable by either party, including but not limited to, labor disturbance, war, fire, accident, adverse weather, inability to secure transportation, governmental act or regulation, and other causes or events beyond our reasonable control, whether or not similar to those which are enumerated above.

If any part of these Terms of Use is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect.

Any failure by us to enforce or exercise any provision of these Terms of Use or related rights shall not constitute a waiver of that right or provision.