



## LaborKey “Labor Paper Mailing List” License Agreement

This document sets forth the terms and conditions of an Agreement for LaborKey software licenses, support, optional LaborKey software customization and other optional data services to be provided by LaborKey Corporation (“L.K. Corp”) to the labor union local, council or other labor union office inserted within clause **(1)** below (“Licensee”). When signed by both an officer of L.K. Corp and a representative of Licensee, this Agreement will constitute our formal written Agreement to the following terms and conditions.

### **(1) LICENSEE ACCOUNT INFORMATION**

ACCOUNT CONTACT ★ \_\_\_\_\_

ORGANIZATION NAME ★ \_\_\_\_\_

eMAIL ADDRESS ★ \_\_\_\_\_

PHONE & EXTENSION \_\_\_\_\_

BILLING ADDRESS ★ \_\_\_\_\_

BILLING CITY / ST / ZIP ★ \_\_\_\_\_

★ *These items are required.*

### **(2) MINIMUM PERIOD, TERMINATION AND REACTIVATION OF SERVICE**

The minimum period of service covered by this Agreement is three months. LaborKey software licenses will be renewed on a month-by-month basis, and at any time following the initial three months of service Licensee may discontinue service by sending notice of termination to L.K. Corp by email or mail at least one full business day prior to the beginning of the month for which LaborKey software licenses are to be terminated. Termination requests will be considered invalid if the account balance is not paid in full at the time of the termination request, and monthly license fees will continue to accrue until the account is paid in full and terminated properly according to these terms. Upon the termination of all LaborKey software licenses, Licensee shall pay a reactivation fee equivalent to three months of the current LaborKey software license fees for a single station to reinstate said licenses.

### **(3) COVERED SERVICE, LICENSE FEES AND SUPPORT FEES**

a. The base monthly license fee of **\$140** for this "Labor Paper Mailing List" Agreement covers unlimited LaborKey software station licenses for a configuration of LaborKey software which is customized to administrate a labor newspaper mailing database. Optional U.S. Post Office ACS (Address Change Service) integration and support may be included for an additional monthly service fee of **\$40**.

THE INITIAL MONTH COVERED BY THIS AGREEMENT IS \_\_\_\_\_ OF \_\_\_\_\_

TOTAL MONTHLY LICENSE FEE **\$** \_\_\_\_\_

**(\$140 [ + optional U.S. Post Office ACS integration & support @ \$40])**

LICENSEE REPRESENTATIVE INITIALS \_\_\_\_\_

b. This Agreement covers all phone, email and web support pertaining to LaborKey software problems or concerns; all basic phone, email and web support of users attempting to utilize LaborKey software in the first two months following installation; and all reasonable support calls throughout the term of this Agreement. This Agreement covers resolution of most LaborKey software problems so long as L.K. Corp determines that a problem identified by Licensee is a significant problem which should be covered under this Agreement. There are no fees for the initial LaborKey software installation, activation or configuration. Separate support fees will generally not apply; however, L.K. Corp reserves the right to bill for support at an hourly rate of **\$150** per hour if deemed necessary by either L.K. Corp or by Licensee. Unique needs or projects may be addressed separately outside the scope of this Agreement, or if both parties choose, simply billed at **\$150** per hour within the scope of this Agreement.

c. This Agreement covers (1) legislative district assignment service for a single Licensee selected state if the statewide voter data is made available by L.K. Corp or acquired independently by Licensee in adherence to applicable state and federal statutes (legislative district assignment service may be offered for additional states if arranged separately), if legislative district assignment service is appropriate for this implementation of LaborKey software (legislative district assignment service may not be permissible for AFL-CIO labor bodies); (2) voter match service for a single Licensee selected state if the statewide voter data is made available by L.K. Corp or acquired independently by Licensee in adherence to applicable state and federal statutes (voter match service may be offered for additional states if arranged separately), if voter match service is appropriate for this implementation of LaborKey software (voter match service may not be permissible for AFL-CIO labor bodies); (3) optional activation of integrated SmartSoft CASS API service billed separately by Datatech SmartSoft Inc. (this CASS API service is unnecessary if Licensee uses a professional mail house service); and potentially other specific features which might apply to Licensee. These additional services and features are documented separately.

d. L.K. Corp may adjust the License Fees and Support Fees (collectively, the "Fees") covered under this Agreement no more frequently than once every four (4) years, and any such increase shall not exceed the cumulative percent change in the Consumer Price Index for All Urban Consumers (CPI-U) over the preceding four (4) years. Permissible adjustments shall be calculated using official U.S. Bureau of Labor Statistics (BLS) data, where the percent increase is the

cumulative percent increase between the January CPI-U value for the calendar year four (4) years prior ("Base Month CPI-U value") and the January CPI-U value for the current year. The adjusted Fees shall be rounded to the nearest whole U.S. Dollar. (The BLS CPI Inflation Calculator may be used for reference.) This methodology ensures both parties can calculate and verify predictable, inflation-based adjustments, thereby avoiding periodic fee negotiation. The current base monthly license fee of \$140 and the current optional U.S. Post Office ACS integration & support fee of \$40 were calculated using the cumulative percent increase between the initial Base Month CPI-U value for November 2015 and the CPI-U value for January 2024; therefore, the Base Month CPI-U value for the next adjustment to the Fees shall be the CPI-U value for January 2024.

## **(4) TERMS OF PAYMENT**

- a. By signing this Agreement, Licensee agrees to the following payment terms.
- b. Licensee agrees to pay the total monthly license fee inserted above within clause **(3)**, paragraph a. L.K. Corp will submit an invoice to Licensee on the tenth day or nearest business day to the tenth day of each calendar month, until Licensee chooses to terminate service per clause **(2)** above.
- c. Licensee accepts all payment terms on this account as billed by L.K. Corp, and Licensee agrees to make timely payment in compliance with such terms. Current terms are payment in full within 25 days of invoice date, with an additional grace period of 10 days after which late fees may accrue.
- d. Licensee agrees to pay L.K. Corp a 5%, or lower if required by law, late fee penalty per month for each month payment is late or insufficient according to payment terms specified hereinabove. L.K. Corp may choose to waive this late fee. The inclusion of this late fee is a precautionary measure for extreme circumstances.

## **(5) SALES & USE TAX**

If Licensee is physically located in Minnesota, L.K. Corp will be required to apply sales tax against all regular monthly LaborKey software license fees and service fees at a rate associated with the 9-digit ZIP code of Licensee's billing address – determined using the Minnesota Department of Revenue ZIP code "Sales Tax Rate Calculator". If Licensee is not located in Minnesota, Licensee may be required to report and remit use tax to appropriate state and/or local tax authorities.

## **(6) DATA PRIVACY AND PROTECTION**

- a. The default LaborKey software configuration covered by this Agreement does not include features or capabilities which (1) permit remote systems to access the local systems or local data or which (2) compromise or weaken firewall, network or machine security. Licensee may choose to have special or custom features enabled which are not included within the default LaborKey software configuration, and these special or custom features may access remote servers and submit or post processed data or LaborKey software user entries or requests to appropriate secure remote servers for the purpose of accessing specific data services required by Licensee.

**b.** If Licensee shall send data files to L.K. Corp for assistance with data processing, L.K. Corp shall only process these data files on systems protected with levels of security which prevent unauthorized persons from accessing these data files. L.K. Corp shall maintain data files for 30 to 60 days, and the data files shall only be used to support Licensee if and when Licensee shall request or require additional assistance with data files. Any files provided by Licensee in the possession of L.K. Corp shall be and forever remain exclusively the property of Licensee.

## **(7) SOFTWARE UPDATES**

All LaborKey software updates shall be made available to Licensee at no cost for as long as the Licensee account shall remain in good standing. Installing, updating or uninstalling LaborKey software versions will never compromise or affect processed data or compromise the configuration of LaborKey software, unless LaborKey software data files, resource files or data directories shall be manually removed or altered by another third-party person, process or system.

## **(8) TITLE, COPYRIGHT, AND PROTECTION OF CODE**

Title, ownership rights, and intellectual property rights in and to LaborKey software and its source code shall remain with L.K. Corp. The copyright laws of the United States and international copyright treaties protect LaborKey software and its source code.

Licensee MAY NOT:

- modify, translate, reverse engineer, decompile, or disassemble LaborKey software, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation;
- create derivative works based on LaborKey software or its source code; or
- distribute copies of LaborKey software outside the scope of this Agreement.

## **(9) CONFIDENTIALITY**

**a.** The licensed LaborKey software and this Agreement contain confidential and proprietary information and trade secrets of L.K. Corp. As used in this Agreement, "Confidential Information" means (1) the licensed LaborKey software and this Agreement; (2) all other proprietary, confidential or trade secret information which is clearly labeled or designated in writing as confidential, proprietary or the like by the disclosing party; (3) information disclosed orally with a designation of such information as secret, confidential or proprietary prior to or during the oral disclosure and a subsequent reduction of such information to a writing labeled confidential, proprietary or the like and sent to the party to whom the disclosure was made within 15 days after the oral disclosure; and (4) any other information that, although not designated as such by the disclosing party, is of a type and nature that a reasonable person would expect that it be treated as confidential and/or proprietary. Notwithstanding the foregoing, information shall not be considered Confidential Information to the extent that such information: (i) can be demonstrated to be already known to the receiving party free of any restriction at the time it is obtained from the other party; (ii) is subsequently learned from an independent third party free

of any restriction and without breach of this Agreement or any other agreement; or (iii) required to be disclosed by applicable law.

**b.** Each of L.K. Corp and Licensee agree that it will not, during the term of this Agreement and without regard to when or for what reason this Agreement shall terminate, disclose to any other person or entity any Confidential Information received from the other, except as strictly necessary (1) in connection with its performance under this Agreement, (2) in connection with any pending action related to this Agreement, or (3) as required by a court of competent jurisdiction. Notwithstanding the provisions of this clause **(9)**, the parties may disclose Confidential Information to their respective affiliates, accountants, attorneys, and other similar professional advisors with a need to know such information as long as the entity or person to which Confidential Information is disclosed is subject to obligations of confidentiality with the same effect as those specified in this clause **(9)**. Notwithstanding the foregoing, L.K. Corp and any independent contractors which it uses to support the licensed LaborKey software may exchange information in connection with this Agreement so long as such independent contractors are subject to obligations of confidentiality.

## **(10) LIMITED WARRANTY AND DISCLAIMER OF WARRANTY**

- a.** Certain end users may have unique needs which are not accommodated by LaborKey software, and therefore L.K. Corp cannot guarantee that LaborKey software will adequately satisfy all requirements of all users.
- b.** L.K. Corp makes no representation or warranty that LaborKey software or any associated documentation are "error-free", or meet any user's particular standards, requirements, or needs. Should LaborKey software prove defective, L.K. Corp will address the proven defect in an appropriate manner so as to eliminate the defect.
- c.** This warranty is a limited warranty and it is the only warranty made by L.K. Corp. To the maximum extent permitted by applicable law, L.K. Corp disclaims all other warranties and conditions, either expressed or implied, including but not limited to, implied warranties of fitness for a particular purpose, title, and non-infringement, with regard to LaborKey software, and the provision of or failure to provide support services. Some states/jurisdictions do not allow exclusions of an implied warranty, so the disclaimer may not apply to Licensee and Licensee may have other legal rights.
- d.** No L.K. Corp agent or representative is authorized to make any modifications or additions to this limited warranty. If Licensee makes any modifications to LaborKey software; if LaborKey software is subjected to accident, abuse, or improper use; or if Licensee violates the terms of this Agreement, then this warranty shall immediately be terminated.

## **(11) LIMITATION OF LIABILITY**

- a.** Under no circumstances, except in the case of L.K. Corp's willful misconduct, and under no legal theory, tort, contract, or otherwise, shall L.K. Corp, its related companies, or its suppliers be liable to Licensee or any other person or entity for any indirect, special, incidental, or consequential damages of any character (including, without limitation, damages of data,

damages for loss of goodwill, work stoppage, loss of profit, computer failure or malfunction, U.S. Post Office charges, other third party data processing fees, or any and all other commercial damages or pecuniary losses) arising out of the use of or inability to LaborKey software. Except in the case of L.K. Corp's willful misconduct, in no event will L.K. Corp's liability for any damages to Licensee and any other party exceed the total of the preceding 12 months of paid LaborKey software license fees (specific to Licensee in question) regardless of the form of the claim, even if L.K. Corp shall have been informed of the possibility of such damages. Some states do not allow the exclusion or limitation of incidental or consequential damages, so this limitation may not apply to Licensee.

**b.** Licensee is solely responsible to any third party entity either using LaborKey software or to any third party entity receiving information or data from Licensee's installation of LaborKey software.

## **(12) MISCELLANEOUS**

**a.** If any provision of this Agreement is found void or unenforceable for any reason, such provision shall be reformed only to the extent necessary to make it enforceable, and the remainder will remain valid and enforceable according to its terms. If any remedy provided is determined to have failed to meet its intended purpose, all limitations of liability and exclusions of damages as described in clauses **(10)** and **(11)** above shall remain in effect.

**b.** This Agreement shall be governed by, interpreted, and construed under Minnesota law as such law applies to agreements entered into and to be performed within Minnesota, except as governed by United States federal law.

**c.** L.K. Corp reserves all other rights and restrictions not specifically granted in this Agreement.

**d.** When signed by both an officer of L.K. Corp and a representative of Licensee, this Agreement shall supersede and replace any and all previous agreements and understandings (whether written or oral) between L.K. Corp and Licensee.

## **(13) ACCEPTANCE**

The persons whose signatures appear below are authorized to submit this Agreement for L.K. Corp and Licensee, and to bind the parties to its terms and conditions.

LABORKEY CORP REPRESENTATIVE \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

LICENSEE REPRESENTATIVE \_\_\_\_\_

REPRESENTATIVE'S TITLE \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_