

UPDATED: JANUARY 1, 2020

## SPECIFIC TERMS & CONDITIONS ADDRESSING APPLICABLE LAWS

These Terms and Conditions Addressing Applicable Laws (these “**Terms**”) are incorporated into and made a part of the Client Service Agreement (“**Agreement**”) between you, as “Client” and Congruity HR, LLC, “Congruity HR”. Capitalized terms used and not defined in these Terms have the meanings set forth in the Agreement. These Terms are intended to address federal, state, county, municipal or other local statutes, regulations, ordinances, rules or judicial or tribunal decisions applicable to Co-Employees or to Congruity HR’s provision of services to Client or Co-Employees (collectively, “**Laws**”). The Agreement is deemed to include these Terms for each applicable jurisdiction, and these Terms only apply to the extent that Client or Co-Employees, or our provision of services to Client or Co-Employees, is affected by those Laws. These Terms may be amended or modified from time to time to address changes in Laws, and the Terms, as amended or modified, shall automatically be incorporated into the Agreement. In the event of a conflict between these Terms and the Agreement (including any other addendum, schedule or exhibit), these Terms control. Additionally, to the extent that these Terms do not contain specific provisions required by any Law applicable to the provision of services by Congruity HR to Client or Co-Employees, those specific provisions are deemed to be part of the Agreement.

### Alabama

1. Pursuant to Section 25-14-9 of the Code of Alabama,
  - A. Congruity HR reserves a right of direction and control over Co-Employees and exercise that right in the context of the need to do so according to the terms and conditions of the Agreement. Client, however, as an employer, retain sufficient direction and control over Co-Employees necessary to conduct Client business, and, without which, Client would be unable to conduct your business, discharge any fiduciary responsibility, or comply with any licensure, regulatory, or statutory requirement applicable to your Co or Co-Employees.
  - B. Congruity HR assumes responsibility to pay wages to covered employees, withhold, collect, report, and remit payroll-related and unemployment taxes to the extent that you have funded the obligations; and, to the extent Congruity HR has assumed responsibility to make payments for employee benefits for Co-Employees. As used in this section, the term “wages” does not include any obligation between Client and Co-Employees for payments beyond or in addition to Co-Employees’ salary or regular rate of pay, such as bonuses, commissions, severance pay, deferred compensation, profit sharing, vacation, sick leave, or other paid time off pay.
  - C. Under the terms and conditions of the Agreement, Congruity HR and Client both have a right to hire, terminate, and discipline Co-Employees subject to the terms of any collective bargaining agreements which may exist.
  - D. Congruity HR will maintain and at the termination of the Agreement will provide to Client, upon your request, workers’ compensation loss experience records related to Co-Employees (does not apply in “Carve-Out” model).
2. The parties recognize that Alabama Act 2006-229 requires Client to post a notice regarding Congruity HR as a professional employer organization.

Any and all questions or complaints should be directed to:

Director  
Alabama Department of Industrial Relations  
Workers’ Compensation Division (PEO Office)  
Montgomery, AL 36131  
800-528-5166

Client agrees to post the state notice which Congruity HR will provide or which is available below.

### Arizona

Pursuant to AZ Revised Stats. 23-562,

1. The right to direct and control covered employees to the extent necessary to conduct Client business and to discharge any fiduciary responsibility or to comply with any licensing requirement that applies to Client or Co-Employees is reserved to you.
2. Congruity HR shall pay the wages of Co-Employees, withhold, collect, report and remit payroll-related and unemployment taxes and make payment for employee benefits for Co-Employees. For purposes of this paragraph, wages do not include obligations between Client and Co-Employees that exceed such Co-Employees’ salary such as bonuses, commissions, severance pay, deferred compensation, profit sharing or vacation, sick or other paid time off.
3. Both Congruity HR and Client shall have a right to hire, terminate and discipline Co-Employees.
4. Congruity HR shall maintain, and if requested by Client at termination of the Agreement, provide Client records regarding the loss experience related to the workers’ compensation insurance that is provided to Co-Employees (does not apply in “Carve-Out” model).

## Arkansas

1. As required under Arkansas A.C.A. § 23-93-409, Congruity HR or our workers' compensation insurance carrier will maintain premium and loss experience related to workers' compensation insurance for Co-Employees during the relationship and provide such records upon written request after termination of the Agreement (does not apply in "Carve-Out" model).
2. As required under Arkansas A.C.A. § 23-92-411, Client is responsible for ensuring with the assistance of a licensed insurance producer that any of Client's subcontractors has workers' compensation coverage as required by law.

## California

Client assume all civil and legal responsibility under California Labor Code Section 2810.3.

## Colorado

Pursuant to Colorado Revised Civil Statutes 8-70-114,

1. Congruity HR, as the co-employer, assigns Co-Employees to your locations.
2. Congruity HR, as the co-employer, retains a right to set the pay rate for the Co-Employees.
3. Congruity HR, as the co-employer, retains the right to pay the Co-Employees from our own accounts.
4. Congruity HR, as the co-employer, retains the right to direct and control Co-Employees and such rights and responsibilities as may be set forth in the Agreement.
5. Congruity HR, as the co-employer, has the right to discharge, reassign, or hire Co-Employees to perform services for Client and Congruity HR.
6. Congruity HR, as the co-employer, has the responsibility for payment of wages to Co-Employees as set forth in the Agreement as well as the responsibility for reporting, withholding, and paying any applicable taxes and premiums with respect to Co-Employees' wages or payment of employee benefit plans sponsored by Congruity HR as set forth in the Agreement.
7. Congruity HR will provide, maintain and secure all records and documents required of us under the unemployment insurance laws of Colorado for Co-Employees.
8. Congruity HR intends for the relationship with Co-Employees to be an ongoing relationship and not temporary or project-specific.

## Florida

1. The parties recognize that Congruity HR is regulated by the Florida Employee Leasing Companies Statute, Chapter 468, Part XI. Further, those statutes and related regulations specify certain language must be included in the Agreement. Therefore, it is agreed that the following is hereby added to the Agreement:
  - A. Congruity HR reserves a right of direction and control over Co-Employees. However, Client may retain sufficient direction and control over Co-Employees as is necessary to conduct Client business and without which Client would be unable to conduct Client business, discharge any fiduciary responsibility that Client may have, or comply with any licensure, regulatory, or statutory requirement applicable to Client or Co-Employees.
  - B. Congruity HR assumes responsibility for the payment of wages to Co-Employees without regard to payment by Client.
  - C. Congruity HR assumes full responsibility for payment of payroll taxes and collection of taxes from payroll of Co-Employees.
  - D. Congruity HR retains authority to hire, terminate, discipline and reassign Co-Employees. However, Client may have the right to accept or cancel the assignment of any Client.
  - E. Congruity HR retains a right of direction and control over management of safety, risk, and hazard control at the worksite affecting Co-Employees, including:
    - i. the responsibility for performing safety inspections of your equipment and premises;
    - ii. the responsibility for the promulgation and administration of employment and safety policies; and
    - iii. the responsibility for management of workers' compensation claims, claims filings, and related procedures.
2. As provided under Florida Statutes, Section 768.098, Client retains actual control over the day to day job duties performed by Co-Employees and actual control over the job site of Co-Employees. Client will promptly report to Congruity HR, any complaints, allegations or incidents of any tortious misconduct or workplace safety violations, regardless of the source.
3. The parties agree that Congruity HR, or our assignee, shall have the right to conduct an annual onsite physical inspection of your worksite location with the purpose of examining workers' compensation classifications of Co-Employees and to aid in the determination of payroll amounts paid to Co-Employees as provided under Florida Statutes at 468.525(4) F.S. and 440.381 or any rules imposed by the Florida Department of Financial Services, Division of Workers' Compensation.
4. The parties agree that if Client fails to pay Congruity HR's invoice as due, then in that event, this Agreement may be terminated instantly without further notice at Congruity HR's sole discretion and Client will assume all employer obligations of Co-Employees.

5. Pursuant to Florida Statutes, Section 627.192(8), Client hereby provides the following sworn statement to us:

**Client does not owe any funds, except those subject to legitimate dispute, to Client's current or former workers' compensation insurer nor does Client owe any funds to Client's current or former employee leasing company.**

#### Idaho

The parties recognize that Congruity HR is regulated by the Idaho statute dealing with professional employer organizations, Chapter 24, Title 44, Idaho Code. Further, that such statute specifies certain language must be included in the Agreement. Therefore, it is agreed that the following is hereby added to the Agreement:

- A. Congruity HR reserves a right of direction and control over Co-Employees. However, Client may retain such sufficient direction and control over Co-Employees as is necessary to conduct Client business and without which Client would be unable to conduct Client business, discharge any fiduciary responsibility which Client may have, or comply with any licensure, regulatory or statutory requirement applicable to Client or Co-Employees.
- B. Congruity HR assumes responsibility for the withholding and remittance of payroll-related taxes and employee benefits from Congruity HR's own accounts, as long as the Agreement remains in force.
- C. Congruity HR retains authority to hire, terminate, discipline, and reassign Co-Employees. However, Client, if Client accepts the responsibility for Client's actions, may have the right to accept or cancel the assignment of any Co-Employee.

#### Indiana

The parties recognize that Congruity HR is regulated by the Indiana statutes dealing with professional employer organizations, IC 27167. Further, that IC 27-16-7-2 specifies certain language must be included in the Agreement. Therefore, it is agreed that the following is hereby added to the Agreement.

1. Except as provided in paragraph 3 below, Congruity HR is responsible for:

- A. The payment of wages to Co-Employees;
- B. The withholding, collection, reporting, and remittance of payroll-related and unemployment taxes related to wages paid to Co-Employees by Congruity HR;
- C. To the extent that Congruity HR has assumed responsibility in the Agreement, making payments for employee benefits for Co-Employees;
- D. The responsibility to obtain workers' compensation coverage for Co-Employees from a workers' compensation insurer that is authorized to conduct the business of insurance in Indiana (does not apply in "Carve-Out" model).;
- E. Congruity HR shall maintain and shall provide to Client, at your request, at the termination of the Agreement, records regarding loss experience related to the workers' compensation coverage of Co-Employees (does not apply in "Carve-Out" model).
- F. Congruity HR is not responsible for any obligation between you and Co-Employees for payments in addition to the Co-Employees' salary, draw, or regular rate of pay, including bonuses, commissions, severance pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off.

#### Kansas

1. Congruity HR shall have the responsibility to pay wages to Co-Employees, to withhold, collect, report and remit payroll-related and unemployment taxes and, to the extent Congruity HR has assumed such responsibility in the Agreement, to make payments for employee benefits for Co-Employees.
2. In addition to Client's right to hire, discipline and terminate Co-Employees, Congruity HR shall have a right to hire, discipline and terminate Co-Employees only as may be necessary to fulfill Congruity HR's responsibilities under the provisions of K.S.A. 2014 Supp. 44-1701 through 44-1711 and amendments thereto known as the Kansas Professional Employer Organization Registration Act (the "Kansas Act"), or the Agreement.
3. For purposes of this Paragraph 1 above, wages do not include any obligation between Client and Co-Employees for payments beyond, or in addition to, Co-Employees' salary, draw or regular rate of pay, such as bonuses, commissions, severance pay, deferred compensation, profit sharing or vacation, sick or other paid time off pay except and solely to the extent that Client has funded such obligations to Congruity HR.
4. Co-Employees shall include individuals who are Client's officers, directors, shareholders, members, partners or managers if such individuals satisfy the provisions of Section 44-1702(e)(1) and (2) of the Kansas Act and such individuals act as operational managers or perform day-to-day operational services for Client.
5. Congruity HR intends for the relationship with Co-Employees to be an ongoing relationship and not temporary or project-specific.

## Louisiana

Client retains control over Client's business enterprise and exercise direction and control over Co-Employees as to the manner and method of work done in furtherance of Client business, but that authority and responsibility as to other employment matters, including but not limited to hiring, firing, discipline, and compensation are allocated as provided in the Agreement. This Agreement is intended to be ongoing rather than temporary. The Agreement is executed between the parties subject to the provisions of Part VII and Part Xii of Chapter 11 of Title 23 of the Louisiana Revised Statutes of 1950.

## Massachusetts

1. Client shall be entitled to exercise all rights; and shall be obligated to perform all duties and responsibilities, otherwise applicable to an employer in an employment relationship, except as provided in the Agreement.
2. Congruity HR is entitled to exercise only those rights, and obligated to perform only those duties and responsibilities, specifically required by M.G.L. c. 149, s. 192-203, or those set forth in the Agreement. Provided, however, that Congruity HR's rights, duties and obligations with respect to any Co-Employee shall be limited to those arising pursuant to the Agreement and those required pursuant to statute during the term of the PEO relationship with such Co-Employee.
3. Client retains the exclusive right to direct and control Co-Employees as is necessary to conduct Client business, to discharge any of Client's fiduciary responsibilities or to comply with any licensure requirements applicable to Client or Co-Employees.
4. Congruity HR shall assume responsibility to do the following:
  - Pay such wages to Co-Employees;
  - Withhold, collect, report and remit payroll-related and unemployment taxes; and
  - Make payments for employee benefits for Co-Employees.
5. Congruity HR shall have a right to hire and terminate Co-Employees as may be necessary to fulfill Congruity HR's responsibilities pursuant to M.G.L. c. 149, s. 192-203. Provided, however, that Client shall have a right to hire, discipline and terminate Co-Employees.
6. Client is responsible for workplace safety, risk and hazard control including disclosing information about workplace injuries and illness required by the federal Occupational Safety and Health Act and for performing workplace safety inspections of all premises where Co-Employees are employed.

## Minnesota

1. This is to inform Client that Client's unemployment account in the state of Minnesota will be transferred to Congruity HR and Client will remain responsible for reporting any non-leased (not Co-Employees) employees on the transferred account.
2. Client agree that within ten (10) days of the Effective Date of the Agreement to provide Congruity HR, in writing, Client's Minnesota unemployment account user identification and password for the online Minnesota Unemployment Insurance system at [www.uimn.org](http://www.uimn.org). This is considered a material provision under the Agreement.

## Missouri

1. Client shall be entitled to exercise all rights; and shall be obligated to perform all duties and responsibilities otherwise applicable to an employer in an employment relationship.
2. Congruity HR shall be entitled to exercise only those rights and obligated to perform only those duties and responsibilities specifically required under M.R.S. sections 285.700 to 285.750 or set forth in Agreement. Congruity HR's rights, duties, and obligations as co-employer with respect to any Co-Employee shall be limited to those arising pursuant to Agreement and sections 285.700 to 285.750 during the term of co-employment by us of such Co-Employee.
3. Unless otherwise expressly agreed by Congruity HR and Client in Congruity HR's Agreement, Client retains the exclusive right to direct and control Co-Employees as is necessary to conduct Client business, to discharge any of Client's fiduciary responsibilities, or to comply with any licensure requirements applicable to Client or to Co-Employees.
4. Congruity HR has the responsibility to: pay wages to Co-Employees and to withhold, collect, report, and remit payroll-related and unemployment taxes, and to the extent Congruity HR has assumed responsibility in the Agreement, make payments for employee benefits for Co-Employees.
5. Congruity HR has a right to hire, discipline, and terminate Co-Employees as may be necessary to fulfill Congruity HR's responsibilities under M.R.S. sections 285.700 to 285.750 and the Agreement. Client has a right to hire, discipline, and terminate Co-Employees.
6. Except as expressly provided otherwise in the Agreement, Congruity HR has the responsibility to obtain workers' compensation coverage for Co-Employees in compliance with all applicable laws.
7. If Client participates in the Missouri Quality Jobs Program, Congruity HR shall prepare documentation relating to Co-Employee's payroll including invoices to Client, at the request of Client and/or the Missouri Department of Economic Development ("MODED") to establish that Client not Congruity HR, has received/applied for the tax credits available through Client's participation in the Missouri Quality Jobs Program ("Program") for the new jobs created by Client.

8. Congruity HR shall also prepare and ship to a Missouri location designated by Client and/or MODED copies of all employment and payroll records for Co-Employees relating to Client's participation in the Program that may be required in connection with any MODED audit of Client's participation in the Program.

## Montana

The parties recognize that the Agreement is governed by the Montana Professional Employer Organizations Licensing Act, and as required by MCA 39-8-207, it is agreed that the following is hereby added to the Agreement:

1. Congruity HR reserves a right of direction and control over Co-employees assigned to Client's location. Client may retain sufficient direction and control over Co-Employees necessary to conduct business and without which Client would be unable to conduct business, discharge fiduciary responsibilities, or comply with state licensing laws;
2. Congruity HR assumes responsibility for the payment of wages of Co-Employees, workers' compensation premiums as applicable by this Agreement, payroll related taxes and employee benefits from Congruity HR's own accounts without regard to payments by Client; and
3. Congruity HR retains authority to hire, terminate, discipline, and reassign Co-Employees. Client has the right to accept or cancel the assignment of any Co-Employee.
4. With respect to Co-Employees, Client shares joint and several liability for any wages, workers' compensation premiums, payroll- related taxes, and any benefits left unpaid by Congruity HR and that, in the event that Congruity HR's license is suspended or revoked, this liability is retroactive to when Client entered into the Agreement.
5. Client is responsible for compliance with Montana Safety Culture Act, Title 39, chapter 71, part 15.

## Nebraska

The parties recognize that the Agreement is governed by the Nebraska Professional Employer Organization Registration Act, Neb. Rev. Stat. Section 48-2701 to 48-2711 (the "**Nebraska Act**") and pursuant to the Nebraska Act, it is agreed that the following is hereby added to the Agreement:

1. Congruity HR shall have responsibility to pay wages to Co-Employees; to withhold, collect, report, and remit payroll-related and unemployment taxes; and, to the extent Congruity HR has assumed responsibility in the Agreement, to make payments for employee benefits for Co-Employees. For purposes of this paragraph, the term "wages" does not include any obligation between Client and Co-Employees for payments beyond or in addition to each Co-Employee's salary, draw, or regular rate of pay, such as bonuses, commissions, severance pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off pay, except to the extent that Client has specifically funded such obligation to Congruity HR.
2. Congruity HR shall have a right to hire, discipline, and terminate Co-Employees as may be necessary to fulfill Congruity HR's responsibilities under the Nebraska Act and the Agreement. Client shall have a right to hire, discipline, and terminate Co-Employees.
3. Congruity HR shall have the responsibility to obtain workers' compensation coverage for Co-Employees from an insurer licensed to do business in Nebraska and otherwise in compliance with all applicable requirements of section 48-2709 of the Nebraska Act. Client is not relieved of its obligations under the Nebraska Workers' Compensation Act to provide workers' compensation coverage in the event that Congruity HR fails to obtain workers' compensation insurance for which Congruity HR has assumed responsibility.
4. Pursuant to Neb. Rev. Stat. Sections 48-2702(4) and 48-115 parts 9 and 10, individuals who are officers, directors, shareholders, partners, and managers of Client, and members (if Client is a limited liability company) shall be Co-Employees provided that such individuals meet the criteria required under Nebraska law and act as operational managers or perform day-to-day operational services for Client.
5. Any Client employees not covered by the Agreement must be covered by Client under a separate workers' compensation insurance policy.
6. Congruity HR will provide a bulletin board posting, which Client will display, that specifies the name of Congruity's workers' compensation carrier and claim instructions. Client is responsible for providing and posting Client's own notices for any separate workers' compensation insurance policy that Client provides to cover employees who are not Co-Employees.
7. The parties intend for this Agreement to be ongoing rather than temporary.

## Nevada

The parties recognize that the Agreement is governed by NRS Sections 616B.670 to 616B.693 and pursuant to such statutes, it is agreed that the following is hereby added to the Agreement:

1. Coverage for workers' compensation for Co-Employees does not take effect until the Effective Date of the Agreement.
2. Congruity HR will pay all premiums required by our workers' compensation insurance policy, including, without limitation, any adjustments or assessments, and Congruity HR will be entitled to any refunds of premiums.
3. Except as otherwise provided by law, all services provided by Congruity HR to Client will cease immediately on the effective date of any termination of the Agreement.

4. Congruity HR's workers' compensation insurer has the right to inspect Client's premises and records.
5. Client's loss experience will continue to be reported in Client's name of to the Commissioner of the Nevada Department of Business and Industry and will be available to subsequent insurers upon request.
6. Congruity HR's workers' compensation insurance policy covers only Co-Employees.
7. Client is responsible at all times for providing coverage for workers' compensation for any of your employees who are not Co-Employees.
8. Client must provide satisfactory evidence of the coverage required by paragraph (7) above to Congruity HR's workers' compensation insurance carrier.
9. If Congruity HR fails to pay any contributions, premiums, forfeits or interest due or submit any reports or other information pursuant to NRS chapters 612, 616A, 616B, 616C, 616D or 617, Client is jointly and severally liable for contributions, premiums, forfeits or interest attributable to the wages of Co-Employees.
10. Client's unemployment account in the state of Nevada will be transferred to Congruity HR and Client remain responsible for reporting any non-leased (not Co-Employees) employees on the transferred account.
11. Client agrees that within ten (10) days of the Effective Date of the Agreement to provide Congruity HR, in writing, your Nevada unemployment tax account number, the user identification and password for the online Nevada DETR Employer Self Service (ESS) Unemployment Insurance system at <http://ui.nv.gov/ess.html> and/or a physical copy of Client's current rate notice or Liability Determination. This is considered a material provision under the Agreement.

### New Jersey

Client acknowledges that the State of New Jersey will close Client's Unemployment Insurance ("UI") account unless Client notifies the State of New Jersey and Congruity HR in writing of its desire and need to maintain Client's UI account. Pursuant to New Jersey Title 34, Labor and Workmen's Compensation, Chapter 8-68 it is agreed that the following is hereby added to the Agreement:

1. Congruity HR reserves a right of direction and control over each Co-Employee. However, Client may retain sufficient direction and control over Co-Employees as is necessary to conduct Client business and without which Client would be unable to conduct Client business, discharge any fiduciary responsibility that Client may have, or comply with any licensure, regulatory or statutory requirement applicable to Client or Co-Employees.
2. Congruity HR assumes responsibility for the payment of wages to Co-Employees without regard to payments by Client to Congruity HR, except that the provisions of this paragraph shall not affect Client's obligations with respect to the payment of wages to Co-Employees.
3. Congruity HR assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on Co-Employees.
4. Congruity H retains authority to hire, terminate, discipline, and reassign Co-Employees. However, no Co-Employee shall be reassigned to another client of Congruity HR without that Co-Employee's consent and Client may have the right to accept or cancel the assignment of any Co-Employee.
5. Congruity HR has given written notice of the relationship between Congruity HR and Client to each Co-Employee we assign to perform services at Client work site(s).
6. Congruity HR shall, except for newly established business entities, hire our initial employee Co-Employees from among Client's employees at the time of execution of the Agreement at comparable terms and conditions of employment as are in existence with Client at the time of execution of the Agreement and as designated by Client. Throughout the term of the Agreement, Co-Employees shall be considered employees of both Client and Congruity HR and upon the termination of the Agreement, Co-employees shall be considered Client's employees.
7. Congruity HR will continue to honor and abide by existing collective bargaining agreements applicable to Co-Employees. Client shall continue to honor and abide by the terms of any applicable collective bargaining agreements, and upon expiration thereof, any of Client's obligations to bargain in good faith in connection with such collective bargaining agreements shall not be affected in any manner by the Agreement.
8. Congruity shall provide workers' compensation insurance for Co-Employees as applicable per the Agreement.
9. Congruity HR and Client shall each retain a right of direction and control over management of safety, risk and hazard control at the work site or sites affecting each Co-Employee including:
  - A. Responsibility for performing safety inspections of Client's equipment and premises;
  - B. Responsibility for the promulgation and administration of employment and safety policies; and
  - C. Responsibility for the management of workers' compensation claims, the filings thereof, and procedures related thereto.
10. Pursuant to New Jersey Title 34, Labor and Workmen's Compensation, Chapter 8-73(a), upon the Effective Date of the Agreement:
  - A. If all of your employees become Co-Employees, Congruity HR will report wages and pay contributions to the unemployment compensation fund based on our State of New Jersey benefit experience.
  - B. If less than all of your employees become Co-Employees, Congruity HR will report wages and pay contributions on Co-Employees to the unemployment compensation fund based on our State of New Jersey benefit experience and Co-Employee experience will not be attributable to us.
11. Pursuant to New Jersey Title 34, Labor and Workmen's Compensation, Chapter 8-73(b), upon termination of Agreement:

- A. If all of your employees become Co-Employees and the Agreement has been in effect for two (2) full calendar years, Client will receive the State of New Jersey new employer unemployment rate.
- B. If all of your employees become Co-Employees and the Agreement has been in effect less than two (2) full calendar years, Congruity HR will provide the State of New Jersey data for it to calculate Client's benefit experience which will be added to Client's prior benefit experience. Both Congruity HR and Client will use Congruity HR's benefit experience rate from termination until the following July 1.
- C. If less than all of Client's employees become Co-Employees and the Agreement was effective at least two (2) full calendar years, the benefit experience of Co-Employees shall not transfer to Client.
- D. If less than all of Client's employees become Co-Employees and the Agreement was in effect less than two (2) full calendar years, Congruity HR will provide the State of New Jersey with data for it to calculate Client's benefit experience which the State of New Jersey will combine with other data on Client's existing benefit experience.

#### **New York**

1. Congruity HR expressly assumes the rights and responsibilities required by Section 31-922, Laws of New York, which requires the Agreement to set forth the responsibilities and duties of each of Congruity HR and Client.
2. Congruity HR reserves a right of direction and control over Co-Employees. However, Client shall maintain such direction and control over Co-Employees as is necessary to conduct Client's business and without which Client would be unable to conduct Client business, discharge any fiduciary responsibility which Client may have, or comply with any licensure applicable to Client or Co-Employee.
3. Congruity HR assumes responsibility for the withholding and remittance of payroll-related taxes and employee benefits for Co-Employees and for which Congruity HR has contractually assumed responsibility from Congruity's own accounts, as long as the Agreement remains in force.
4. Congruity HR retains authority to hire, terminate and discipline Co-Employees.
5. Congruity HRs pay wages and collects, report and remits employment taxes of Co-Employees from Congruity HR's accounts.
6. Congruity HR pays unemployment insurance as required by applicable unemployment insurance law.
7. Congruity HR secures and provides required workers' compensation coverage for Co-Employees either in either Congruity HR's name or Client's name.
8. The Agreement is intended to be on-going rather than temporary in nature.

#### **North Carolina**

For purposes of the North Carolina Professional Employer Organization Act, N.C. Gen. Stat. § 58-89A (the "**North Carolina Act**"):

1. Client retains the exclusive right of direction and control over the Co-Employees as is necessary to conduct Client business and without which Client would be unable to conduct Client business, to discharge any fiduciary responsibility that Client may have, or to comply with any licensure, regulatory, or statutory requirement applicable to Client or Co-Employee.
2. Employment responsibilities not allocated to Congruity HR by the Agreement or Section 58-89A-100 of the North Carolina Act remain with Client.
3. Congruity HR assumes responsibility for the payment of wages to Co-Employees as agreed to in the Agreement.
4. Congruity HR assumes responsibility for the payment of payroll taxes and collection of taxes from payroll on Co-Employees.
5. Congruity HR shall have a right to hire, discipline, and terminate Co-Employees as may be necessary to fulfill our responsibilities under the North Carolina Act and the Agreement. Client shall have a right to hire, discipline, and terminate Co-Employees.
6. Client retains a right of direction and control over the adoption of employment policies and the management of workers' compensation claims, claim filings, and related procedures in accordance with applicable federal laws and the laws of the State of North Carolina.
7. Congruity HR shall have the responsibility to obtain workers' compensation coverage for Staff, from an entity authorized to do business in the State of North Carolina and otherwise in compliance with all applicable requirements. Congruity HR shall maintain and provide to Client, at the termination of the Agreement if Client requests, records regarding the loss experience related to workers' compensation insurance provided to Co-Employees pursuant to the Agreement.
8. Client represents and warrants that Client has met any and all prior premium or fee obligations for workers' compensation insurance to Client's current or prior carrier and/or professional employer organization.
9. Congruity HR and Client assume the responsibilities required by the North Carolina Act.
10. Congruity HR and Client intend that the Agreement is to be of a long-term or continuing nature, rather than temporary or seasonal in nature.

#### **North Dakota**

1. Congruity HR is responsible for the procurement of workers' compensation insurance and administration of claims for those Co-Employees working outside of North Dakota.
2. Congruity HR is responsible for the procurement of workers' compensation insurance and administration of claims for those Co-Employees working in North Dakota.

3. Client agrees that Client will comply, at Client's sole cost and expense, with all federal, state and local health and safety laws, regulations, ordinances, directives and rules relating to workplace, including all directives concerning a safe work environment from us or the North Dakota insurance system for Co-Employees working in North Dakota.
4. Congruity HR shall have the right to inspect Client's workplace, including but not limited to any job sites at which Co-Employees will be assigned. To the extent possible, such inspections shall be scheduled at mutually convenient times.
5. Congruity HR shall, at Congruity HR's expense, keep in force at all times during this Agreement, workers' compensation insurance covering all Co-Employees working outside of North Dakota. Client shall be named an alternate employer. Upon your written request, Congruity HR shall request that Congruity HR's insurance carrier furnish a certificate of insurance verifying coverage. The policy shall include a waiver of subrogation.
6. Client shall be responsible for procurement of workers' compensation insurance coverage on any of Client's employees that are not part of Co-Employees, any Co-Employees working in North Dakota, individual owners who work in the business, and any employees of your subcontractors. Additionally, Client shall require Client's subcontractors and independent contractors to maintain workers' compensation insurance coverage. Client shall keep certificates of insurance documenting such coverage on file and provide them to Congruity HR upon request. Client agrees to reimburse and indemnify Congruity HR for any costs or expenses incurred by us as a result of Client's breach of this provision or the failure of any of Client's subcontractors or independent contractors to maintain workers' compensation insurance coverage.
7. The parties intend that their relationship is an ongoing relationship rather than a temporary or project-specific relationship.
8. Co-Employees shall include any individual who is your officer, director, shareholder, partner or manager where such individual meets the criteria set forth in North Dakota Century Code Section 43-55-01(5) and any other criteria set forth in the Agreement.
9. Client and Congruity HR are jointly liable for delinquent unemployment insurance taxes, and any such delinquent amounts including any penalties or interest due may be collected from either of party.

#### Ohio

1. Pursuant to Section 4125.01(E) of the Ohio Revised Code, the Agreement may not terminate without cause prior to twelve months from the Effective Date of the Agreement.
2. The parties intend for the Agreement to be ongoing rather than temporary in nature.
3. Congruity HR will pay wages and taxes from Congruity HR's own accounts regardless of receipt of payment from Client.

#### Oklahoma

Pursuant to Ok. Stat. Section 40-600.7(c):

1. Congruity HR shall reserve a right of direction and control over Co-Employees; provided, that Client may retain the right to exercise such direction and control over Co-Employees as is necessary to conduct Client business, to discharge any fiduciary responsibility which Client may have, or to comply with any licensure requirements applicable to Client or Co-Employees.
2. Congruity HR shall have responsibility to pay wages and salaries to Co-Employees; to withhold, collect, report, and remit payroll-related and unemployment taxes; and, to the extent Congruity HR has assumed responsibility in the Agreement, to make payments for employee benefits for Co-Employees.
3. Both parties shall retain authority to hire, terminate, and discipline Co-Employees.
4. Congruity HR shall have the responsibility to obtain workers' compensation coverage for Co-Employees, from a carrier licensed to do business in Oklahoma and otherwise in compliance with all applicable requirements. Congruity HR shall maintain and provide to Client, at the termination of the Agreement if requested by Client, records regarding the premium and loss experience related to workers' compensation insurance provided to Co-Employees.
5. The parties intend that their relationship is an ongoing relationship, rather than a temporary or project specific relationship.

#### Rhode Island

1. Pursuant to R.I. Gen. Laws Section 5-75-7(a)(2):
  - A. Congruity HR shall reserve a right of direction and control over Co-Employees; provided, that Client may retain the right to exercise such direction and control over Co-Employees as is necessary to conduct Client business, to discharge any fiduciary responsibility which Client may have, or to comply with any licensure requirements applicable to Client or Co-Employees.
  - B. Congruity HR shall have responsibility to pay wages to Co-Employees; to withhold, collect, report and remit payroll-related and unemployment taxes; and, to the extent Congruity HR has assumed responsibility in the Agreement, to make payments for employee benefits for Co-Employees. As used in this section, the term "wages" does not include any obligation between Client and Co-Employees for payments beyond or in addition to the Co-Employees' salary, draw or regular rate of pay, such as bonuses, commissions, severance pay, deferred compensation, profit sharing or vacation, sick or other paid time-off pay except to the extent that Client has specifically funded such payments to Congruity HR.
  - C. Congruity HR shall have the responsibility to withhold, collect, report and remit payroll related and unemployment taxes. For purposes of chapters 39 – 41 (Rhode Island Temporary Disability Insurance Act) and chapters 42 – 44 (Employment Security Act) of title 28, and this section, the term "wages" shall be defined in accordance with § 28-42-3(28).

- D. Both parties shall have a right to hire, terminate and discipline Co-Employees.
  - E. Congruity HR shall have the responsibility to obtain workers' compensation coverage for Co-Employees, from a carrier licensed to do business in Rhode Island and otherwise in compliance with all applicable requirements.
2. Pursuant to R.I. Gen. Laws Section 5-75-2(d)(1), the parties intend for their relationship to be an ongoing relationship, rather than a temporary or project specific relationship.
  3. Pursuant to R.I. Gen. Laws Section 5-75-2(d)(3), Client is responsible for any employer right or obligation not otherwise allocated by the Agreement or Chapter 5-75 (Professional Employer Organizations Act of 2004, as amended).
  4. Pursuant to R.I. Gen. Laws Section 5-75-2(e), individuals who are your officers, directors, shareholders, partners, and managers of Client, will be Co-Employees provided that such individuals act as operational managers or perform services for you and meet the criteria contained in R.I. Gen. Laws Section 5-75-2(e) and the Agreement.
  5. Both parties assume the responsibilities required by Chapter 5-75 (Professional Employer Organizations Act of 2004, as amended).
  6. Congruity HR shall maintain and provide to Client, at the termination of the Agreement, if Client requests, records regarding the loss experience related to workers' compensation insurance provided to Co-Employees.

### South Carolina

The parties recognize that Congruity HR is regulated by the South Carolina Department of Consumer Affairs ("**Department**"), under Title 40, Chapter 68 of the South Carolina Code. Further, those statutes specify that that certain language must be included in the Agreement. Therefore, it is agreed that the following is hereby added to the Agreement:

1. Congruity HR reserves a right of direction and control over Co-Employees.
2. Congruity HR assumes responsibility for the payment of wages to Co-Employees without regard to payment by Client, subject to the termination provisions hereof.
3. Congruity HR assumes responsibility for payment of payroll taxes and collection of taxes from payroll of Co-Employees.
4. Congruity HR retains a right to hire, fire, discipline and reassign Co-Employees.
5. Congruity HR retains a right of direction and control over the adoption of employment policies and safety policies and the management of workers' compensation claims, claim filings and related procedures.
6. Congruity HR and Client agree that:
  - A. Notice to or acknowledgment of the occurrence of an injury on Client's part is notice or knowledge on Congruity HR's part and our workers' compensation insurer;
  - B. For purposes of Title 42, the jurisdiction over Client is the jurisdiction for Congruity HR and Congruity HR's workers' compensation insurer;
  - C. Congruity HR and Congruity HR's workers' compensation insurer are bound by and subject to the awards, judgments, or decrees rendered against them under Title 42; and
  - D. Insolvency, bankruptcy, or discharge in bankruptcy of Client or us does not relieve Congruity HR, Client or the respective workers' compensation insurers of Client or Congruity HR from payment of compensation for disability or death sustained by Co-Employees during the life of a workers' compensation policy.
7. Congruity HR shall procure workers' compensation insurance liability for Co-Employees as indicated by the Agreement.
8.
  - A. Client hereby certifies and agrees that all of Client's employees are Co-Employees or that you maintain a separate workers' compensation policy to protect the individuals who are not Co-Employees.
  - B. Congruity HR will, before execution of the Agreement and annually thereafter, conduct a good faith investigation of Client's business. If the investigation determines not all of Client's employees have become Co-Employees, Client will and do hereby agree to maintain Client's own separate workers' compensation insurance policy covering such non-Co-Employees and will provide Congruity HR a copy of Client's certificate of insurance with a thirty (30) days' notice of cancellation, non-renewal or material change.
9. Client agrees to display the following notices, in Client places of business in a conspicuous place that is in clear and unobstructed public view.
  - A. We are in a co-employment relationship with Congruity HR, with Congruity HR being a PEO licensed and regulated by the South Carolina Department of Consumer Affairs.

Any questions or complaints regarding Congruity HR should be addressed to:

Department of Consumer Affairs  
 2221 Devine Street, Suite 200  
 Columbia, SC 29205-2418  
 Telephone: 803/734-4200

- B. We are operating under and subject to the Workers' Compensation Act of South Carolina. In case of accidental injury or death to an employee, the injured employee, or someone acting on his or her behalf, shall notify immediately:

Congruity HR  
508 Arbor Hill Road  
Kernersville, NC 27284

To report an injury call: 1(844) 322-4660

- C. Failure to give immediate notice may be the cause of serious delay in the payment of compensation to you or your beneficiaries and may result in failure to receive any compensation benefits.
10. Client acknowledges that at the time of termination of this Agreement, Congruity HR will send notice to Co-Employees advising them of the termination of employment by Congruity HR.

### Tennessee

The parties recognize that the Agreement is governed by the Tennessee Employee Leasing Act, Tennessee Code Annotated, Title 62, Chapter 43. In keeping with such provisions, it is agreed that the following is hereby added to the Agreement:

1. Congruity HR reserves a right of direction and control over Co-Employees. However, Client may retain such sufficient direction and control over Staff as is necessary to conduct Client business and without which Client would be unable to conduct Client's business, discharge any fiduciary responsibility which Client may have, or comply with licensure, regulatory or statutory requirements applicable to Client or Co-Employees.
2. Congruity HR assumes responsibility for the payment of wages to Co-Employees, payroll related taxes and employee benefits from Congruity HR's own accounts without regard to payments by Client to Congruity HR.
3. Congruity HR retains authority to hire, terminate and discipline Co-Employees.
4. Client and Congruity HR intend for this relationship to be an ongoing relationship, rather than a temporary or project specific relationship.
5. Co-Employees may include individuals who are Client officers, directors, shareholders, partners, and managers; provided that such individuals meet the criteria required of all other Co-Employees and act as operational managers or perform day-to-day operational services for Client.

### Texas

The parties recognize that Congruity HR is regulated by the Texas Professional Employer Organization Act, Texas Labor Code, Chapter 91. Therefore, it is agreed that the following is hereby added to the Agreement.

1. Congruity HR & Client:
  - A. Share the right of direction and control over Co-Employees,
  - B. Share the right to hire, fire, discipline and reassign Co-Employees; and
  - C. Share the right of direction and control over the adoption of employment and safety policies and the management of workers' compensation claims, claim filings, and related procedures.
2. Congruity HR assumes responsibility for the payment of wages to Co-Employees without regard to payment by Client and responsibility for the payment of payroll taxes and collection of taxes from Co-Employees.
3. Client retain responsibility for the acts, errors, and omissions of Co-Employees committed within the scope of Client's business.
4. Client is hereby notified the address for the Texas Department of Licensing and Regulation is: P.O. Box 12157, Austin, Texas 78711; (800) 252-8026. The department may be contacted regarding unresolved complaints concerning Congruity HR or questions concerning the regulation of professional employer organizations.
5. Chapter 91 of the Texas Labor Code, as amended, also provides that Congruity HR is not in the unauthorized practice of an occupation, trade or profession which is licensed or certified or otherwise regulated by a governmental entity solely by entering an Agreement.
6. The parties certify that the Agreement and any amendments meet the requirements of § 151.057 Sales Excise and Use Tax, Texas Tax Code regarding Texas sales tax and that the services performed under this Agreement are exempt from Texas sales tax.
7. For purposes of paragraph 6(A) of the Agreement, Co-Employees shall include executive employees as that term is described by Section 406.097 of the Texas Labor Code (*i.e.*, sole proprietor, partner, and corporate executive officer).

### Utah

The parties recognize that the Agreement is governed by certain portions of Utah statutes and rules governing the operation of a professional employer organization including the Utah Professional Employer Organization Licensing Act, Title 31A, Chapter 40, Utah Code Annotated (the "**Utah Act**"). It is, therefore, agreed that the Agreement is amended by adding the following:

1. Congruity HR reserves a right to hire, discipline, and terminate Co-Employees as to Congruity HR's employment relationship only and only to the extent necessary to fulfill Congruity HR's obligations under the Agreement and the Utah Act.
2. Client has a right to hire, discipline, and terminate Co-Employees.
3. The responsibility to obtain workers' compensation coverage for Co-Employees, from a carrier licensed to do business in Utah shall be allocated to Congruity HR. Congruity HR shall obtain an individual policy in Client's name pursuant to Rule R612-400-2(B)(1) of the Utah Administrative Code with coverage for Congruity HR as additional insured.

### Virginia

The parties recognize that the Agreement is subject to the Virginia Insurance Code (16VAC30-100-40) which specifies that Client shall:

1. Comply with the insuring requirement of section 65.2 – 801 of the Code of Virginia with respect to employees at your worksite that are not subject to this Agreement; and
2. Maintain separate voluntary market workers' compensation insurance insuring any and all employees not insured under the provisions of Congruity HR's policy of insurance as provided in the Agreement.

### Washington

1. Congruity HR shall be responsible for the procurement of workers' compensation insurance for Co-Employees, which will be in Client's name, and the administration of claims.
2. Congruity HR shall keep in force at all times during this Agreement, through the state of Washington, workers' compensation insurance coverage which will be held in Client's name covering all Co-Employees located within the state of Washington, pursuant to the terms of this Agreement.
3. Pursuant to WAC 192-300-210(5), Congruity HR is required to gather the following information from Client and report the same to the State of Washington:
  - A. Client name, address, unified business identifier numbers, Washington Employment Security Number;
  - B. The names and social security numbers of all of Client's corporate officers, owners and partners or limited liability company members, as applicable;
  - C. The effective date of the Agreement;
  - D. A business location in the State of Washington where payroll and business records for Client will be made available for review or inspection when requested by the Washington Employment Security Department; and
  - E. Client's Federal Employer Identification Number.

### West Virginia

The parties recognize that this Agreement is subject to the West Virginia Professional Employer Organization Licensing Act, Chapter 33, Article 46A, West Virginia (the "**West Virginia Act**"). Pursuant to the West Virginia Act, the parties agree as follows:

1. Client shall retain the right to hire, discipline, and terminate Co-Employees provided that Congruity HR have the right to terminate the Agreement if Clients refuse without good cause a request from Congruity HR that you discipline or terminate Co-Employees as may be necessary to fulfill Congruity HR's obligations under the Act and the Agreement.
2. Co-Employees shall include persons who are Client's officers, directors, shareholders, partners and members and who perform day-to-day operational services for Client who otherwise meet the requirements to become Co-Employees under the terms of the Agreement.
3. The Agreement is intended to be of a continuing rather than a temporary or seasonal nature.
4. Except as otherwise provided by law:
  - A. Client is solely responsible for the quality, adequacy or safety of the goods or services produced or sold in Client's business;
  - B. Client is solely responsible for directing, supervising, training and controlling the work of Co-Employees, and are solely responsible for the acts, errors or omissions of Co-Employees, when Co-Employees are engaged in your business activities; and
  - C. Congruity HR is not liable for the acts, errors or omission of Client or of Co-Employees when Co-Employees are acting under Client's express direction and control.
5. Congruity will maintain and provide workers' compensation coverage for Co-Employees from a carrier authorized to do business in the state of West Virginia.

Required Alabama Notice

STATE OF ALABAMA  
PROFESSIONAL EMPLOYER ORGANIZATION  
INFORMATION



**CONGRUITY HR, LLC**

is registered with and regulated by the Alabama Department of Labor.  
Any and all questions or complaints should be directed to:

Alabama Department of Labor  
Workers' Compensation Division (PEO Office)  
649 Monroe Street  
Montgomery, Alabama 36131  
(800) 528-5166

**Alabama Act 2006-229 requires that this notice shall be posted in each business office maintained within the state.**