



**TimeClock Plus, LLC**  
**RECIPROCAL NON-DISCLOSURE**  
**AGREEMENT**

THIS AGREEMENT (“Agreement”) made effective this the \_\_\_\_ day of \_\_\_\_\_, 2024 (“Effective Date”) by and between \_\_\_\_\_, a \_\_\_\_\_ corporation, having principal offices at \_\_\_\_\_ (hereinafter referred to as "Client") and TimeClock Plus, LLC, a Delaware limited liability company, with its office located at 1 Time Clock Drive, San Angelo, TX 76904, (hereinafter known as “TCP”), (hereinafter individually referred to as “Party” or collectively referred to as the “Parties”).

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WHEREAS, the Parties hereto have determined to establish terms governing the use and protection of certain information one party ("Owner" or "Disclosing Party") may disclose to the other party ("Recipient" or "Receiving Party") during an evaluation of a possible transaction between the Parties.

NOW, THEREFORE, in consideration of the foregoing, and in reliance on the mutual agreements contained herein, the Parties agree as follows:

1. **"Confidential Information"** means information of an Owner (i) which relates to the purpose and subject matter identified in the recital to this Agreement, including, but not limited to, financial, business, scientific, technical, economic, or engineering information and computer programs, patterns, plans, compilations, program devices, formulae, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and regardless of how stored, compiled, or memorialized, whether physically, electronically, graphically, photographically, in writing or by some other means, and data and information regarding Owner’s customers and suppliers (current, former, or prospective), including without limitation, Non-Public Personal Information (defined below), or (ii) which, although not related to such purpose or subject matter, is nevertheless disclosed hereunder, and which, in any case, is disclosed by an Owner or an affiliate to Recipient in document or other tangible form bearing an appropriate legend indicating its confidential or proprietary nature, or which, if initially disclosed orally or visually is identified as confidential at the time of disclosure and a written summary thereof, also marked with such a legend, is provided to Recipient within fifteen (15) days of the initial disclosure.

2. **"Non-Public Personal Information"** means any of the following information accessible through or archived in connection with any website operated by or for Owner: any identifier that permits physical or online contacting of a specific individual

person, including without limitation, any one or more of (i) first and last name, (ii) home or physical address, (iii) email address, (iv) telephone number, or (v) social security number.

3. **Exclusions.** The restrictions of this Agreement on use and disclosure of Confidential Information shall not apply to Confidential Information that: (i) is already in the possession or control of Recipient at the time of its disclosure hereunder; (ii) is, or becomes publicly known, through no wrongful act of Recipient; (iii) is received by Recipient from a third party free to disclose it without obligation to Owner; or (iv) is independently developed by Recipient without reference to Confidential Information.

4. **Third Party Disclosure.** Each Party agrees that it will not, without the prior written consent of the other, issue any press release or announcement or otherwise disclose the nature of this Agreement and/or the proposed business relationship.

5. **Use of Confidential Information.** Recipient may use Confidential Information of Owner only for the purpose of this Agreement and shall protect such Confidential Information from disclosure to others, using the same degree of care used to protect its own proprietary information of like importance, but in any case, using no less than a reasonable degree of care. Recipient may disclose Confidential Information received hereunder only for the purpose described in the recital to this Agreement and only to its employees and consultants who have a need to know for such purpose and who are bound by agreements to protect the received Confidential Information from unauthorized use and disclosure. Recipient shall not use or disclose any Confidential Information of Owner for Recipient's own benefit or for the benefit of any third party. Recipient shall not modify, reverse engineer, decompile, disassemble, or create other works from any computer programs in object code form that are provided as Confidential Information by the other party. Notwithstanding anything to the contrary, the Parties shall not and shall not permit any third party to modify, aggregate, de-identify, and/or anonymize any Confidential Information, or otherwise use any Confidential Information to create, train, or otherwise perform or enable machine learning or artificial intelligence. Each Party acknowledges and agrees that the other Party may be a competitor and that nothing in this Agreement shall prohibit or restrict either Party from competing with the other Party in any manner, as long as the Confidential Information of the other Party is not used for such purpose.

6. **Compelled Disclosure.** In the event Recipient is required by law, regulation, or court order to disclose any of Owner's Confidential Information, Recipient will notify Owner (if not prohibited by law from doing so) in writing prior to making any such disclosure to facilitate Owner seeking a protective order or other appropriate remedy from the appropriate body. Recipient further agrees that if Owner is not successful in precluding the requesting legal body from reviewing the Confidential Information, it will furnish only that portion of the Confidential

Information which is legally required and will exercise reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the Confidential Information.

7. **Ownership and Retention.** Confidential Information disclosed under this Agreement (including information in computer software or held in electronic storage media) shall be and remain the property of Owner. All such information in tangible form shall be returned to Owner promptly upon written request and shall not thereafter be retained in any form by Recipient. Notwithstanding the foregoing, a copy of the Confidential Information may be retained by the Recipient if such Party is required to retain a copy of all or a part of the Confidential Information to comply with any legal, contractual, professional, or fiduciary obligation, and the Recipient shall not be required to destroy or delete copies that have become embedded in its electronic storage systems through routine backup processes.

8. **Feedback.** Each Party may from time to time provide suggestions, comments, or other feedback to the other Party regarding Confidential Information provided originally by the other Party ("Feedback"). Both Parties agree that all Feedback is and shall be entirely voluntary and shall not, absent a separate written agreement, create any confidentiality obligation or restriction on use on the Party receiving the Feedback. Both Parties agree that Feedback shall remain the property of the Party that provided it. Each Party shall be free to use and disclose Feedback as it deems fit without restriction or obligation; provided, however, that in no event shall the recipient of Feedback disclose the source of the Feedback without the providing Party's written consent. The foregoing shall not, however, affect either Party's obligations hereunder regarding Confidential Information.

9. **Warranties and Limitation of Liabilities.** Owner shall not have any liability or responsibility for errors or omissions in, or any business decisions made by Recipient in reliance on, any Confidential Information disclosed under this Agreement. Recipient assumes all risk, known or unknown, incident to its use of Confidential Information, and Owner shall have no liability of any kind to Recipient or any third party arising out of such use. Under no circumstances shall either Party be liable to the other Party for lost or anticipated profits, consequential, incidental, special, punitive, or any other type of indirect damages arising from or related to this Agreement, except to the extent that such damages arise in connection with the intentional, willful, or reckless disclosure of Confidential Information. OWNER DISCLAIMS ALL WARRANTIES INCLUDING WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND WARRANTIES OF NONINFRINGEMENT OF THE RIGHTS OF THIRD PARTIES (INCLUDING WITHOUT LIMITATION, RIGHTS UNDER PATENT, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL PROPERTY RIGHTS). RECIPIENT ACCEPTS THE CONFIDENTIAL INFORMATION IN "AS-IS" CONDITION.

10. **Indemnification.** To the extent permissible by law, Recipient shall indemnify Owner against all losses and expenses incurred by Owner, including without limitation attorney's fees, which result from the breach of any part of this Agreement by Recipient.

11. **Remedies and No Waiver.** The provisions of this Agreement are necessary for the protection of the business and goodwill of the Disclosing Party and are considered by the Receiving Party to be reasonable for such purpose. The Parties hereby acknowledge that any breach of any provision of this Agreement regarding confidentiality or protection of Confidential Information may constitute irreparable harm for which there may be no adequate remedy at law, and that the non-breaching Party shall be entitled to obtain specific performance and/or injunctive relief from a court of competent jurisdiction in addition to any other rights or remedies available at law or in equity. The Parties further agree that no bond or other security shall be required in obtaining such equitable relief and the Parties hereby consent to the issuance of such injunction and to the ordering of specific performance. The rights and remedies of the Parties will not be diminished, waived, or extinguished by the granting of any indulgence, forbearance, or extension of time by the Disclosing Party to the Receiving Party nor by any failure of or delay by the Disclosing Party in ascertaining or exercising any such rights or remedies.

12. **No Joint Venture or Other Obligation.** Each Party acknowledges and agrees that no legal obligations by either Party exist with respect to any transaction by virtue of this Agreement and no contract or agreement providing for a transaction with the other Party shall exist unless and until a written agreement for such transaction(s) has been executed by the Parties. Nothing in this Agreement is intended to, or shall be deemed to, establish any agency, partnership, joint venture, or other similar relationship between the Parties.

13. **Term and Survival.** This Agreement shall become effective as of the Effective Date. All obligations regarding the confidentiality of Non-public Personal Information shall remain in effect in perpetuity. Except for Non-Public Personal Information, all obligations hereunder regarding the use and disclosure of Confidential Information shall continue for a period of five (5) years from the Effective Date. Otherwise, this Agreement shall expire on the third (3<sup>rd</sup>) anniversary of the Effective Date, unless either Party terminates this Agreement by giving fourteen (14) days' prior written notice.

14. **Merger and Severability.** This Agreement is the complete agreement of the Parties concerning the subject matter hereof and supersedes any prior such agreements with respect to further disclosures on such subject matter. If any provision of this Agreement is found to be unenforceable, the remainder shall be enforced as fully as possible, and the unenforceable provision shall be deemed modified to the limited extent required to permit its enforcement in a manner most

closely representing the intention of the Parties as expressed herein.

15. **Amendment.** This Agreement may not be amended or in any manner modified except in writing signed by the Parties.

16. **Export.** Recipient certifies that no Confidential Information will be exported to any country in violation of the United States Export Administration Act and the regulations thereunder.

17. **Jurisdiction and Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Texas without regard to its conflict of law provisions. Each Party irrevocably and unconditionally agrees that the courts located in Tom Green County, Texas shall have exclusive jurisdiction for any arbitration, actions, suits or proceedings arising out of or related to the Agreement (and the Parties agree not to commence any action, suit or proceeding relating thereto, except in such courts) to settle any dispute or claim arising out of or in connection with this Agreement. The Parties irrevocably and unconditionally waive any objection to the laying of venue of any arbitration, action, suit or proceeding arising out of this Agreement, in the courts of Tom Green County, Texas or the United States of America located in Tom Green County, and hereby further irrevocably and unconditionally waive and agree not to plead or claim in any such arbitration or court that any such arbitration, action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

18. **Arbitration.** In accordance with Title 9 of the United States Code, any dispute or controversy arising out of or relating to this Agreement or its interpretation will be settled exclusively and finally by binding arbitration. The arbitration will be conducted procedurally in accordance with Subchapters C through G of Chapter 172 of the Texas Civil Practice and Remedies Code, as amended from time to time. Where a conflict exists between the terms of any of the provisions of those subchapters and this Agreement, the terms of this Agreement will control. The arbitration will be conducted before a sole arbitrator appointed by the presiding judge of one of the state district courts of Tom Green County, Texas. The arbitration will be conducted in San Angelo, Texas. Any award rendered in the arbitration proceeding will be final and binding on each of the Parties, and judgment may be entered thereon in a court of competent jurisdiction.

19. **Authority.** The Disclosing Party warrants that it has the right to transmit or otherwise disclose to the Receiving Party information disclosed by the Disclosing Party hereunder. Each person signing this Agreement hereby represents and warrants that he or she has the authority to bind the entity on behalf of which he or she has signed.

20. **Miscellaneous.** This Agreement shall be binding upon the Parties and their respective successors, assigns, and their respective Representatives. EACH

PARTY HAS CAREFULLY READ AND CONSIDERED THE PROVISIONS HEREIN AND AGREES THAT THE RESTRICTIONS SET FORTH ARE FAIR AND REASONABLE AND ARE REASONABLY REQUIRED FOR THE PROTECTION OF THE INTERESTS OF THE PARTIES AND THEIR BUSINESS, OFFICERS, DIRECTORS AND EMPLOYEES.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed below.

*[Signature Page Follows.]*

**Accepted by:**

**Client**

**TimeClock Plus, LLC**

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_