fundserv

Customer Contract Form

Please complete all required fields in this form and have it signed by the authorized signing officer(s) of your firm before returning it to onboarding@fundserv.com.

This **CUSTOMER CONTRACT ("Agreement")** is made between

FUNDSERV INC. ("Fundserv")

and

_____

*(Name of Customer)**

the customer that has executed this Agreement (the "Customer").

RECITALS:

a) Everyone that uses the Services must become a customer of Fundserv by entering into an agreement with Fundserv governing that customer's use of the Services or must be authorized to use the Services by and on behalf of an entity that has entered into such an agreement;

b) Fundserv provides the Network and value-added services as described in the Services Selection form, as amended from time to time;

c) The Customer wishes to use the Services made available by Fundserv;

d) While Fundserv uses commercially reasonable efforts to ensure the availability and accuracy of the Network and the Services, it makes no representations as to the absolute availability of the Network and Services and does not warrant that the Network and/or Services will be free from error or interruption; and

e) The Customer recognizes the value of the Fundserv Standards, and acknowledges Fundserv's right to protect that value.

NOW THEREFORE this Agreement witnesses that, in consideration of the mutual premises and covenants set out herein, Fundserv and the Customer agree as follows:

1. THE AGREEMENT

Attached to this Agreement is the Services Selection form governing the use of the Services and a Definitions Schedule that sets out definitions for use with the Services Selections and this Agreement and other Schedules. All such Schedules, which may be amended from time to time, shall be considered to form part of this Agreement and references to the Agreement include such Schedules. Terms capitalized in this Agreement and not otherwise defined shall have the meaning attributed thereto in the Definitions Schedule. Once the Customer has met the Criteria for Eligibility and Fundserv has approved the Customer's access to the Network, the Customer will be provided access to the Services. The Services Selection form shall be interpreted so as to be consistent with the terms of the Agreement. In the event of any inconsistency among the Services Selection form and the remainder of the Agreement, the Agreement shall have precedence and govern. Fundserv shall be entitled to amend any or all of the Agreement at any time and shall provide the Customer with reasonable notice in writing (which may include notice by electronic communication) of such amendments.

2. LIABILITY OF CUSTOMER AS PRINCIPAL

The Customer shall be liable as principal for all obligations and liabilities arising from its use of the Services whether the Customer is acting on its own behalf or whether the Customer utilizes a third party to act on its behalf. (To the extent the Customer has designated other entities pursuant to Section 3, the Customer executing this Agreement shall be liable as principal for all obligations and liabilities arising from the use of the Services by such designated entity/ies.) Fundserv shall be entitled to rely on, and a Customer shall be bound by:

a) a written, oral or electronic instruction or communication given in accordance with the Agreement; and

b) every act or document signed by, or communication, transaction, authorization or instruction in respect of the Services given by any individual signing on its behalf, regardless of the medium by which it is communicated, and whether or not it is within the scope of the authority given by the Customer to the Person making it.

Fundserv may accept and rely upon any instructions so given by any medium, form or manner whatsoever. Fundserv shall have no responsibility or liability for an action reasonably taken in good faith in reliance upon such an instruction and the Customer shall be bound by such an instruction, notwithstanding any error which may exist in any magnetic tape document or any other medium delivered to Fundserv, any forgery or fraud by a signing officer, designated third party or a Person (other than an employee of Fundserv) purporting to be such a designated third party or using electronic communication, or any other error, misunderstanding or lack of clarity in any instruction or communication between the Customer and Fundserv.

3. USE OF A THIRD PARTY

In the event that the Customer utilizes a third party to assist the Customer in providing or administering its products or services, Fundserv shall provide such third party with access to the Network on behalf of the Customer provided that:

a) The Customer notifies Fundserv of the designation of the third party in accordance with the form of designation specified by Fundserv from time to time;

b) Fundserv has approved providing the third party with access to the Network and/or the Fundserv Standards, which approval shall not be unreasonably withheld;

c) The third party executes a copy of the Vendor Contract and such other documentation as may reasonably be required by Fundserv from time to time; and

d) The Customer is responsible for all costs, of every nature and kind whatsoever, associated with the provision of access to the third party.

In the event that the Customer designates a third party to give instructions to Fundserv on behalf of the Customer, Fundserv shall be entitled to rely on instructions received from the third party only. In the event that Fundserv receives instructions from both the third party and the Customer, and the third party has been designated by the Customer in accordance with the form of designation specified by Fundserv from time to time, Fundserv shall accept the instructions from the third party so designated. Without limiting the generality of section 2, the Customer shall be responsible for all actions, of every nature and kind whatsoever, taken by the third party on behalf of and/or in the name of the Customer, whether or not such acts are within the third party's authority, until such time as the Customer notifies Fundserv in writing, in accordance with the form of designation specified by Fundserv from time to time, of a change.

4. WAIVER OF FUNDSERV REPRESENTATIONS AND WARRANTIES

The Customer expressly waives all representations, warranties and conditions not expressly set forth in this Agreement including, without limitation, implied representations, warranties and conditions of merchantable quality and fitness for a particular purpose.

Without limiting the generality of the complete exclusion of liability found in this Agreement and the Vendor Contract, if applicable, Fundserv shall not be liable for any loss, damage or injury arising from or relating in any way to this Agreement and/or the Services, including without limitation, any claims, whether foreseeable or not, based in contract (including fundamental breach), tort (including negligence), strict liability or any other legal or equitable theory.

5. REPRESENTATIONS AND WARRANTIES

Each of the Customer and Fundserv represents and warrants to the other at the time of execution of this Agreement, and the Customer shall be deemed to be representing and warranting upon each use of a Service, that:

a) This Agreement constitutes a legal, valid and binding obligation of it, enforceable against it in accordance with the Agreement's terms;

b) It has been duly organized under the laws of its jurisdiction of organization or incorporation and has not been dissolved and is in good standing. It has all necessary power and authority to execute and deliver, and to perform all of its obligations under, this Agreement;

c) The individual signing this Agreement on its behalf is duly authorized to do so, and the other party is entitled to rely on the representations and certifications made by and signature of any person on its behalf in respect of any other documentation related to this Agreement;

d) It is in compliance with all Applicable Laws;

e) It has taken all necessary action and not omitted any necessary action in respect of any and all Applicable Laws; and

f) The execution and delivery of the Agreement and performance by it of its obligations hereunder do not and will not conflict with or result in any breach of any of the provisions of or constitute (with or without notice or lapse of time) a default under:

   i) its charter documents, constating documents or by-laws or any resolutions of its directors or shareholders;

   ii) any Applicable Law by which it or any of its assets is bound or to which it or any of its assets is subject;

   iii) any indenture, mortgage, lease, written agreement, instrument, licence, permit, order, judgment or decree by which it is bound or to which any of its assets is subject.

   In addition, the Customer represents and warrants at the time of execution of this Agreement and shall be deemed to be representing and warranting upon each use of a Service that:

g) The Customer is using the Services only as set out in the relevant Schedule to this Agreement;

h) The Customer is authorized to utilize the Services requested in accordance with the Agreement;

i) The Customer has obtained and maintained all necessary consents in respect of any and all Applicable Laws;

j) The execution and delivery of the Agreement and performance by the Customer of the

obligations hereunder do not and will not conflict with or result in any breach of any of the provisions of or constitute (with or without notice or lapse of time) a default under the Customer's obligations under the Agreement and the use of the Services hereunder;

and shall be deemed to be representing and warranting upon each use of a Service that it has adhered to all eligibility requirements in the Agreement.

The representations and warranties provided herein shall survive notwithstanding any investigations made on or behalf of or any knowledge of the party to whom the representations and warranties are made.

6. COVENANTS AND OTHER AGREEMENTS

The Customer covenants that:

a) It shall adhere to and conform to all terms and conditions of the Agreement that are applicable to it;

b) It shall not use the Network and the Services for any purpose not authorized by this Agreement or for any unlawful or deceptive purposes;

c) It shall comply with and conform to all Applicable Laws, including maintenance of all authorizations, registrations and consents required to be obtained by it in respect of this Agreement and the Services hereunder, and shall ensure the compliance of its employees, contractors, agents, and Affiliates, and the employees, contractors, and agents of the Affiliates;

d) It shall obtain and maintain all necessary consents, take all necessary action and shall not omit to take any necessary action in respect of any and all Applicable Laws;

e) To the extent that personal information is transferred to it, it shall have reasonable safeguards and security measures to protect any and all such transferred personal information and shall keep it in confidence; and

f) Under no circumstances shall it attempt unauthorized access to the Network, the Fundserv Standards and/or the Services.

The Customer acknowledges and agrees that provision to the Customer of a copy of the results of Fundserv's third party assurance dealing with, inter alia, privacy, security and integrity of data, meets all requirements the Customer may have to audit Fundserv.

Where applicable, Fundserv covenants that to the extent that the Customer transfers personal information to Fundserv for processing, Fundserv shall have reasonable safeguards and security measures to protect such transferred personal information and shall keep it in confidence during processing. In addition, Fundserv covenants that it shall use commercially reasonable efforts to ensure the availability and accuracy of the Network and the Services.

To remain active in the Network, the Customer must maintain an active registration with all appropriate regulators. All attempts will be made by Fundserv to validate the status of the Customer's registration, if applicable, via the various regulators' websites. Fundserv reserves the right, however, to request a copy of the Customer's current registration and/or other appropriate documentation.

7. FEES AND PAYMENTS

The Customer shall pay such fees and charges to Fundserv as shall be specified by Fundserv for the use of the Services from time to time. The Customer shall pay the fees and charges charged to it within 30 days of the invoice date or at such other time as may be specified by Fundserv. Fundserv shall notify the Customer in writing of any increase in fees not less than 90 days prior to implementation of such increase.

For the purposes of this section, notification on the Fundserv website shall constitute notice in writing. The Customer shall also pay any taxes and other governmental charges levied or imposed on the Services provided to the Customer.

8. SECURITY/ACCESS

8.1 **Security Measures.** With respect to security and access to the Network, the Customer shall perform and comply with all terms of any procedures put in place, including the terms of use updated and posted from time to time on the Fundserv website.

8.2 **Privacy.** The Customer shall comply with all applicable privacy legislation and the Fundserv Privacy Policy. The Customer hereby represents, warrants and covenants that it shall have obtained and maintained, and shall obtain and maintain all necessary consents, and shall take all necessary action, and has not omitted and shall not omit to take any necessary action, to permit Fundserv to collect, use and disclose personal information as may be required for its purposes, in accordance with applicable privacy legislation and the Fundserv Privacy Policy.

9. INDEMNITY BY CUSTOMER

The Customer shall indemnify and hold harmless Fundserv, and its partners, directors, trustees, officers, employees and agents, from and against any loss, damage, expense, liability, demand, proceeding, liability, deficiency, cost or claim (including without limitation the cost of legal counsel to advise on or defend against such claims and other professional fees and disbursements, interest and penalties and amounts paid in settlement) suffered or incurred by or made against it, arising directly or indirectly from:

a) Any use by the Customer of the Network, the Fundserv Standards or the Services, which shall include use by any third party or other Person on behalf of or permitted by the Customer;

b) Any interruption, malfunction or disruption of the Services to the extent caused or contributed to by the negligent, fraudulent or dishonest act or omission of the Customer or of any director, trustee, officer, partner, employee, servant, contractor or agent of the Customer done while acting in the course of his/her office or employment or made possible by information or opportunities afforded by such office or employment;

c) Any incorrect instructions, information or documentation provided to Fundserv by the Customer by any means of communication;

d) Any breach by the Customer of its obligations, representations or warranties to Fundserv under the Agreement;

e) Any communication received by Fundserv originating from the Customer;

f) The unauthorized use or disclosure of any Fundserv Information by the Customer, Affiliates, employees, contractors or agents, or the employees, contractors or agents of its Affiliates;

g) Any breach of this Agreement by the Customer, Affiliates, employees, contractors or agents, or the employees, contractors or Agents of its Affiliates;

h) Any inaccuracy of any representation, warranty or covenant of the Customer contained in this Agreement;

i) The infringement of any intellectual property or other proprietary right of any third party caused by any information, documentation or other material provided by the Customer to Fundserv; and/or

j) The operations of the Customer and its Affiliates.

k) In the event the Customer or Fundserv becomes aware of a claim to which this Section 9 would apply, then it shall notify promptly the other party in writing of such claim.

10. CONFIDENTIALITY AND PROPRIETARY INFORMATION

10.1 Fundserv Information

a) The Customer acknowledges that any authorized access to Fundserv Information is a privilege and that disclosure of Fundserv Information would be damaging to Fundserv. The Customer acknowledges that the value of the Network, the Fundserv Standards and the Services would be severely compromised by a decrease in the community value of Fundserv Network. The Customer understands that damages may not be a sufficient remedy for any breach or threatened breach of the confidentiality obligations under this Agreement, and such breach will cause irreparable damage to Fundserv. The Customer hereby agrees that upon any such breach or threatened breach by the Customer and/or Affiliates, Fundserv will, in addition to any other legal or equitable remedies, be entitled to an injunction against such breach or threatened breach, without the necessity of proving actual damages.

b) The Customer acknowledges that Fundserv is the exclusive owner of Fundserv Information. The Customer acknowledges that no right, title or interest in or to Fundserv Information or any part thereof, including, without limitation, the Fundserv Standards, is given or otherwise conveyed to the Customer hereunder. In the event that the Customer has obtained or obtains an interest in Fundserv Information, the Customer hereby assigns any and all right, title and interest to Fundserv, including without limitation, any and all copyright.

c) The Customer is hereby granted a limited right and licence to use the Fundserv Standards solely in accordance with the terms of this Agreement, including the right to use the Fundserv Standards (i) to communicate through Fundserv Network with other customers of Fundserv; (ii) to communicate with Fundserv; (iii) to communicate with a designated third party that has met the criteria set out in Section 3 hereof; and (iv) for the Customer's own internal purposes, including communication with an entity affiliated with the Customer.

d) Disclosure of Fundserv Information shall not be prohibited if the disclosure is required by a valid and existing order of a court or other governmental body or agency within Canada, provided that (i) the Customer has given prompt notice to Fundserv of any possible or prospective order (or proceeding pursuant to which any order may result), and (ii) Fundserv shall have been afforded a reasonable period of time within which to prevent or limit any disclosure. In addition, the obligation of confidentiality does not extend to information which:

   i) was known to the Customer through lawful means;

   ii) the Customer receives without restriction from a Person free to make such disclosure without breach of any legal obligations.

e) The Customer shall not use any of Fundserv Information in any manner not expressly permitted by Fundserv and shall not disclose any of Fundserv Information to any Person other than to employees of the Customer with a need to know such Fundserv Information, provided that the Customer shall ensure that such employees are subject to the same standard of confidentiality as is imposed on the Customer, and that the Customer shall be responsible for any breach of this covenant of confidentiality by such employees. For greater certainty, the Customer shall use Fundserv Information only for the purposes authorized by Fundserv, and for no other purpose.

f) All computer software used for Fundserv is the exclusive property of Fundserv or is used under license from Fundserv's suppliers. The Customer shall have no right or license to use or

reproduce any such software other than in connection with Fundserv and subject to the terms of the license agreements provided with such software.

g) For the purposes of this section 10, the obligations imposed on Fundserv and the Customer extend to their respective directors, trustees, officers, employees, advisers and agents.

10.2 Customer Information

Fundserv shall use reasonable care to preserve the confidentiality of any information concerning a Customer that becomes known to Fundserv through the operation of the Services. Such confidentiality obligation shall not apply to the fact the Customer is a customer of Fundserv or to any information which is or becomes generally available to the public, otherwise than as a result of the breach of this clause. Such confidentiality obligation shall not preclude the disclosure of confidential information to any of Fundserv's officers, directors, employees or agents which is reasonably necessary for the operation of the Services. The obligations of Fundserv pursuant to this clause shall be in addition to and shall not derogate from any other obligation of confidentiality arising from any agreement binding on Fundserv.

10.3 Release of Information

The Customer authorizes Fundserv to release information concerning the Customer and any entity designated by the Customer pursuant to Section 3 hereof:

a) To the auditors of Fundserv;

b) To the legal counsel of Fundserv as may reasonably be required to perform their duties;

c) As may be required from time to time by order of, or pursuant to an agreement with, a court, regulatory body or other administrative or regulatory agency, or otherwise pursuant to any Applicable Laws;

d) That is in a statistical, summary or other format; and/or

e) To another customer of Fundserv in respect of the Customer's use of the Services and/or adherence to the Agreement.

11. SURVIVAL OF CUSTOMER'S OBLIGATIONS

The Customer acknowledges that its right to use the Services may be suspended or terminated in accordance with the Agreement. The Customer may withdraw from participation in the Services in accordance with the Agreement. The liabilities and obligations of the Customer to Fundserv and to other customers, and of Fundserv and other customers to the Customer, arising from its use of the Services before such suspension, termination or withdrawal, shall survive the suspension, termination or withdrawal of the Customer as though it were still a Customer.

12. EXCLUSION OF LIABILITY

No director, trustee, adviser, officer, employee, supplier, contractor, or agent of Fundserv shall have any personal liability to the Customer for any act or omission in relation to the Services. Fundserv shall not be liable to the Customer for any loss, damage, cost, expense, liability, claim, loss of opportunity, loss of revenue, loss of profit, loss of market, loss of data, damage to reputation, loss of goodwill, claims or demands by third parties, loss of interest or loss of use of money or securities, or any other direct, indirect, special, punitive, exemplary, aggravated, incidental or consequential loss, damage, cost, expense, liability or claim of any nature or kind whatsoever suffered or incurred by the Customer arising from its use of the Services, the Agreement, or from any conduct of any employee of Fundserv, regardless of the form of action and howsoever arising, including, without limitation, arising from a breach by Fundserv or negligence by Fundserv, or any other act or omission of Fundserv, even where Fundserv has been

advised of or could reasonably have foreseen such losses or damages. Without limiting the generality of the forgoing, Fundserv shall not be liable to the Customer for any loss that arises from any action taken by Fundserv in accordance with a lawful direction of a regulatory authority having jurisdiction over Fundserv or the Customer.

Notwithstanding the forgoing, Fundserv in its sole discretion may determine that it is appropriate to make a claim under its insurance and, in the event it does so and in the event that Fundserv receives proceeds of insurance or payment from any other third party in respect of any loss suffered by a customer from its use of the Services, Fundserv shall distribute such net proceeds (after payment of its reasonable expenses from the proceeds so recovered) to any customer suffering the losses so incurred. If more than one customer suffered a loss and the net recovery is insufficient to reimburse each customer in full, the amount recovered (net of expenses) shall be distributed to all of the customers suffering a loss, pro-rated in proportion to the loss suffered by each customer as calculated by Fundserv in its sole discretion. The maximum total cumulative aggregate amount payable by Fundserv arising under or relating to this Agreement or otherwise shall not exceed the net amount of its recovery from insurance coverage in any circumstance or for any reason whatsoever. Fundserv does not make any representation or warranty that such insurance coverage will be in effect.

13. TERM AND TERMINATION

Term

The term of this Agreement shall commence on the date of its execution by the Customer and shall continue indefinitely subject to termination in accordance with the terms hereof.

Termination on Notice

The Customer may at any time notify Fundserv that it wishes to withdraw from participation in the Services by giving at least 30 days prior written notice on letterhead of the Customer signed by an appropriate signatory. On the expiry of such notice period, the Customer shall cease to be a customer. Fundserv shall promptly communicate to the other customers that the Customer has given notice of its intention to withdraw from use of the Services.

Suspension and Termination for Cause

Suspension

When in its discretion, acting reasonably, Fundserv considers that Adequate Cause exists, Fundserv shall provide written notice to the Customer, which notice shall describe the Adequate Cause relied upon. If the Customer fails to remedy the matter described within the time specified in the notice, Fundserv may suspend the right of the Customer to use any or all of the Services. Fundserv may lift the suspension of a Customer if Fundserv in its discretion, acting reasonably, determines that the Customer has corrected the situation that caused Fundserv to suspend the Customer. The Customer may appeal a decision to suspend to the Fundserv Board of Directors.

Termination

a) When in its discretion, acting reasonably, Fundserv considers that Adequate Cause exists, Fundserv shall provide written notice to the Customer, which notice shall describe the Adequate Cause relied upon. If the Customer fails to remedy the matter described within the time specified in the notice, Fundserv may terminate the Customer's use of any or all of the Services. A Customer may appeal such decision to the Fundserv Board of Directors.

b) Fundserv may terminate this Agreement immediately if the Customer files a voluntary petition in bankruptcy, insolvency or a petition for reorganization; consents to any involuntary petition in bankruptcy or a receiving order is given; or there is an order, judgment or decree approving a

petition seeking reorganization or appointing a receiver, trustee or liquidator.

c) The Customer may terminate this Agreement immediately if Fundserv files a voluntary petition in bankruptcy, insolvency or a petition for reorganization; consents to any involuntary petition in bankruptcy or a receiving order is given; or there is an order, judgment or decree approving a petition seeking reorganization or appointing a receiver, trustee or liquidator.

Procedure on Suspension or Termination

Notice of suspension or termination specifying the cause therefore shall be given by Fundserv promptly to the suspended or terminated Customer, provided that the suspension or termination may be effective immediately and before the Customer has received such notice. Such information may also be communicated as soon as practicable to such other customers as Fundserv deems proper provided, however, that Fundserv shall use reasonable best efforts to ensure the Customer is notified prior to other customers being notified. In order to limit disruption to the Services and to other customers, Fundserv may take any actions that, on the evidence reasonably available to it, it deems necessary or desirable in the best interests of Fundserv and of customers generally to maintain the integrity of the Services. Any actions taken by Fundserv for such purposes may be taken regardless of any provision in any Procedure.

Reinstatement

A Customer which has withdrawn or been terminated may at any time be reinstated by Fundserv upon request by the Customer and on conditions determined by Fundserv, provided the Customer is then eligible for participation, meets the Criteria for Eligibility, and demonstrates to the satisfaction of Fundserv that it has discharged all of its liabilities and indebtedness to Fundserv and the other customers arising from the Services. Fundserv may approve or reject a request for reinstatement in its sole discretion.\

Events on Termination

Upon termination of this Agreement:

a) Or upon the written request of Fundserv, the Customer shall immediately return to Fundserv all materials and/or equipment in its or a third party's possession or control, where such possession or control arises from the Customer's actions, containing or referring to Fundserv Information;

b) The Customer shall cease to be a customer;

c) The Customer shall promptly pay all amounts due and owing to Fundserv;

d) Fundserv shall promptly communicate to the other customers that the Customer is no longer a customer;

e) The Customer's right and licence to use Fundserv Information, including, without limitation, the Fundserv Standards, shall cease immediately; and

f) The Customer will take such other actions as this Agreement requires.

14. PRINCIPLES OF INTERPRETATION

Divisions and Headings

The division of any of this Agreement into sections and sub-sections, and the insertion of headings is done for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

Number, Gender

A word importing the singular number includes the plural and vice versa, and a word importing a gender includes all genders.

Action by Fundserv

Fundserv may take any action referred to in the Agreement through any one of its officers, or through any Person designated from time to time by the Board of Directors or by the officers of Fundserv.

Business Days

Fundserv shall be open for business as provided in the Procedures. Fundserv shall not be required to open for business on any day solely because it is an operating day in one or more locations where customers engage in business. Any transactions that Fundserv is instructed to effect on days on which Fundserv is not open for business shall be accepted, made or effected on the next day on which Fundserv is open for business.

Includes and Including

References in the Agreement to “includes” or “including” shall mean “includes, without limitation” and “including, without limitation”, respectively.

Severability

If any provision of this Agreement is determined to be invalid, illegal or unenforceable by a court of competent jurisdiction, that provision shall be deemed to be severed herefrom, and the remaining provisions of the document in question shall not be affected thereby and shall remain valid and enforceable.

Entire Agreement

The Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, negotiations, discussions and understandings, whether written or oral, between the parties, provided, however, that any outstanding payment obligation and/or obligation of confidentiality, indemnity, acknowledgement of liability and/or acknowledgement of intellectual property rights by the Customer in favour of Fundserv and/or the other customers of the Network, the Fundserv Standards and/or Services arising prior to the effective date of this Agreement shall continue in full force and effect. Except as contained herein, there are no conditions, covenants, agreements, representations, warranties, acknowledgements or other provisions, express or implied, collateral, statutory or otherwise, that form part of or affect this Agreement.

Force Majeure

If Fundserv’s performance is prevented, hindered or delayed by reason of any cause(s) beyond Fundserv’s reasonable control, including without limitation, labour disputes, war or civil disorder, governmental regulations, or acts of God, Fundserv shall be excused from performance of its obligations to the extent that it is prevented, hindered, or delayed thereby during the continuance of such cause(s).

Consent to Breach Does Not Constitute Waiver

No term or provision of this Agreement is deemed waived and no breach excused, unless the waiver or consent is in writing and signed by the party claiming to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, does not constitute consent to, waiver of, or excuse for, any other different or subsequent breach.

Independent Contractors

Fundserv and the Customer are independent contractors. Nothing herein shall in any manner or for any purpose render either party an agent, fiduciary, trustee, partner or other representative of the other party.

Counterparts

This Agreement may be executed in counterparts, each of which is deemed to be an original and all of which together are deemed to be one and the same instrument.

15. NOTICE

Method

Any notice to be given under the Agreement whether by Fundserv to the Customer or by the Customer to Fundserv, shall be deemed to have been validly given if given in accordance with the procedure for notice for such communication set out in this Agreement. Where notice is required under this Agreement or any of the Services Selections and a specific procedure for notice for such communication is not set out in this Agreement or a Services Selections form, such notice shall be delivered in writing (which in the case of notice from Fundserv to the Customer may be by electronic communication) or sent by confirmed fax addressed in accordance with this section. Communications between Fundserv and the Customer that are not required under this Agreement or a Service Selection form may be made by any means contemplated by the Agreement, including, without limitation, by electronic communication. For the purposes of the Agreement, "**notice**" means a communication from Fundserv to the Customer, or from the Customer to Fundserv, in accordance with this Agreement and "**notification**", "**notify**", "**notifies**" and "**notified**" have a corresponding meaning.

Address for Customers

At the time of execution of this Agreement, the Customer shall provide Fundserv with an appropriate street address and other information, including an email address and fax number if available, to be used by Fundserv for the purpose of giving notice to the Customer. The Customer may revise this information from time to time in accordance with the notice provisions set out herein and shall be required to update the information at the request of Fundserv from time to time. Fundserv may rely upon the most recent information provided by the Customer.

Address for Fundserv

Any notice to be given by the Customer to Fundserv under the Agreement shall be addressed as follows:

Fundserv Inc.
333 Bay Street
Suite 2600
Toronto, Ontario, M5H 2R2
Attention: Corporate Secretary
Telecopier (Fax): (416) 362-8772

or, if Fundserv notifies the Customer of a change of address, to that other address.

Effective time for Notice

Notice delivered in any one of the foregoing methods or otherwise in accordance with the Agreement by Fundserv to the Customer or by the Customer to Fundserv, is effective:

a) at the time that such notice is delivered or sent, if the notice is delivered or sent during regular business hours on a Business Day; or

b) at the next time that Fundserv opens for business, if the notice is delivered or sent outside a Business Day.

16. SURVIVAL

All terms and conditions of this Agreement which by their nature extend beyond the termination or expiration of this Agreement shall survive the termination or expiration, including, without limitation, Sections 2, 3, 7, 8, 9, 10, 11, 12 and this Section 16.

17. ASSIGNMENT

Fundserv may assign its rights and obligations under this Agreement to any of its Affiliates, or to any Person who succeeds to the rights and obligations of Fundserv with respect to the Services generally. Fundserv shall notify the Customer of any such assignment. The Customer may assign its rights and obligations under this Agreement to any of its Affiliates, or to any Person who succeeds to the rights and obligations of the Customer, provided that the assignee meets the Criteria for Eligibility. The Customer shall notify Fundserv of any such proposed assignment. This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the Customer and Fundserv.

18. CHOICE OF LAW

Governing Law

This Agreement shall constitute a contract made under the laws of Ontario. Such contract shall be deemed to be performed in Ontario, and shall be governed by, and interpreted and enforced in accordance with, the laws of the Province of Ontario (excluding any conflict of laws rule or principle which might refer such construction to the laws of another jurisdiction) and the laws of Canada applicable therein.

Submission to Jurisdiction

All suits, actions or proceedings of any kind arising out of or in relation to the Agreement or the Customer's participation in the Services, whether between the Customer and Fundserv or between the Customer and any other customer, shall be brought in the courts of Ontario in Toronto. Each of the Customer and Fundserv submits to the jurisdiction of such courts for the purpose of any such suit, action or proceeding and waives any objection which it may have at any time to the venue of any proceedings brought in any such court, waives any claim that such proceedings have been brought in an inconvenient forum and further waives the right to object, with respect to such proceedings, that such court does not have any jurisdiction over such party.

Dispute Resolution Among Customers

Responsibility for resolving any dispute arising from the Services shall rest solely upon the customers which are parties to the dispute.

19. LANGUAGE

By executing this Agreement in the English language, the parties hereto declare that it is their wish that this Agreement and the documents related thereto be in the English language only. En signant la version anglaise de la présente convention, les parties aux présentes déclarent vouloir que la présente convention et les documents qui s'y rattachent soient rédigés en langue anglaise seulement. This Agreement is also available in the French language. Cette convention est également disponible en langue française. Versions of the Agreement in English or French are equally authentic. Les versions française et anglaise des documents juridiques font également foi.

fundserv

THIS CUSTOMER CONTRACT is made as of _____ , 20 _____ .*

IN WITNESS WHEREOF the Customer and Fundserv have executed this Agreement under the hands and seals of their respective officers, duly authorized and appointed.

_____
Name of Customer*

By:

Signature*

Title*

By:

Signature*

Title*

Fundserv Inc.

By:

Signature*

Title*

By:

Signature*

Title*

* Required Field

RESET SEND