



## Terms of Service, Payment Terms and Cancellation Policy for all ControlWorks Consulting, LLC "Service" or "Subscription" based modules

**IMPORTANT- READ CAREFULLY.** This is a legally binding agreement between you and ControlWorks Consulting for access to certain electronic Services provided by ControlWorks Consulting. Your use of those Services indicates your acceptance of the terms of this agreement.

### **I. Definitions**

- a) Any "Service" or "Subscription" based module is described as any module that is administrated via [admin.controlworks.com](http://admin.controlworks.com) or [admin.thecontrolworks.com](http://admin.thecontrolworks.com).
- b) "We", "Us", and "ControlWorks" refers to ControlWorks Consulting, LLC, it's employees, directors, owners and authorized agents.
- c) "You" and "Dealer" refer to the Authorized Crestron Dealer or other entity who is entering into this agreement.
- d) "Client" and "End User" refer to the end user of the Crestron system in which the Service module is included.
- e) "Module" includes any Crestron User Modules (.UMC), SIMPL+ Modules (.USP) or other files required to access the Service from a Crestron processor.
- f) "Processor" refers to a Crestron Control System Processor that utilizes Software authored in the SIMPL Windows environment and is otherwise capable of running the module as intended by ControlWorks without further modification. This includes, but is not limited to the Crestron Pro2, AV2, CP2, CP2E, PAC2, MC2E, MC2W, MP2, and MP2E.
- g) "Client ID" refers to a unique identifier, generally between 10 and 14 characters, generated by ControlWorks' systems and used to grant an individual Crestron Processor access to an individual Service
- h) All words in the singular include the plural, and the plural include the singular.

## **II. Access to data**

a) All ControlWorks Services are maintained on a “best efforts” basis. That is we will make all reasonable attempts to ensure that the services are available 24x7x365, However interruptions in service, planned or unplanned, may occur from time to time and We will take reasonable measures to ensure that access to the Service is restored as quickly as possible.

## **III. Usage of data**

a) ControlWorks does not guarantee the accuracy or completeness of the data provided by the modules. Therefore module data shall be used only for casual observations. Modules and module data shall not be used in any application in which the performance or failure to perform of the module may result, directly or indirectly, in damage to or loss of property (of any kind); injury, death, or the basis of financial or business decisions. You agree that You have made the Client aware of this limitation

## **IV. Activation of accounts**

a) You understand that once you generate a new account, and are provided a unique Client ID, that the service will automatically be functional for a period of seven days. Credit card payment information must be supplied on the activation form and the activation form must be received by ControlWorks within the seven days. If payment information is not received within the seven days the module will cease functioning.

## **V. Usage of accounts**

a) You understand and agree that these services require payment of an annual fee. Payment of this fee entitles to you to a “Client ID” which will allow a single instance of the module access to the server side data. Using a single Client ID in more than one instance of the module, or using a Client ID other than one assigned to you by ControlWorks violates the terms of this agreement and will result in the termination or suspension of your account(s) without notice.

b) You agree not to use the Service or Module in a manner that creates an undue load or burden upon ControlWorks servers, network, or other supporting infrastructure. You agree that upon notification by ControlWorks of such use that you will immediately modify or discontinue your use, and that failure to do so may result in



termination or suspension of the affected Client ID(s) without further notice.

## **VI. Payment terms**

a) ControlWorks may offer multiple pricing models for services covered by these Terms of Service. The pricing models and price levels offered may vary by Service. In addition, ControlWorks may, from time to time offer promotional pricing that is subject to compliance with additional terms and conditions and/or may only be available for a limited time, as described in those offers.

### **b) Payment Terms for Accounts Electing an Annual Subscription**

**(when offered):** All payments are due via credit card only. Service fees and durations for each module are detailed on the activation form. You authorize ControlWorks to renew all services and all accounts on an annual basis. ControlWorks reserves the right to adjust the service rates on a periodic basis. You are responsible for maintaining a current e-mail address with ControlWorks for such notifications. Should a payment be declined, chargedback, or a credit card expired, ControlWorks will first attempt to notify you at the email address and/or telephone number on file to minimize the risk of service interruption.

### **c) Payment Terms for Accounts Electing a One-Time Payment**

**(when offered):** All payments are due and payable via credit card only. Service fees are detailed on the activation form. Upon receipt of payment, ControlWorks will activate the Service account. The account will remain active until the earlier of (i) a violation of these Terms Of service or any future version of these Terms of Service (as described in Section X – "Modification" below); (ii) ControlWorks decision to discontinue offering the affected service; or (iii) a replacement of the Processor or Processor Ethernet Card resulting in a change of the MAC Address used to access the service. Under no circumstances will ControlWorks make any refund for accounts activated with a "One-Time Payment". If the payment to activate an account is declined, charged back, or made with an invalid Credit Card number, ControlWorks will not activate the account, or if the account has previously been activated will cause it to be deactivated.

d) **"Free" and Zero Cost Accounts:** ControlWorks may elect to provide access to some services at no charge to some, or all users. ControlWorks provides access to these services on an "as-is" basis without support, and accepts no liability for the use or inability to use



the same. Access to these services may be discontinued at any time for any reason. Use of a "Free" account indicates your acceptance of and agreement to all of the conditions (including the requirement to obtain a unique Client ID for each Processor accessing each service) in this document and any applicable Promotional terms and conditions.

e) **Change In Rates:** You will be notified via e-mail about changes in the rate structure affecting accounts associated with your login. Any changes will be effective immediately for new accounts and upon renewal for existing accounts. You agree that you will maintain a valid e-mail address on file with ControlWorks for receiving these notices, and this notice will be considered delivered upon ControlWorks transmission, without regard to its receipt or failure to be received by You.

### **VII. Cancellation Policy**

a) Should you wish to terminate an account you must do so in writing, by email to [support@controlworks.com](mailto:support@controlworks.com), fax to 440-449-1106, or mail to ControlWorks Consulting, LLC 701 Beta Drive #22 Mayfield Village, OH 44143. ControlWorks will not offer any refund for any remaining time on an account. For Modules on an Annual Subscription Basis: In order to prevent incurring another annual fee for any given account you must contact us in writing within 10 days of the expiration of the service term associated with a particular Client ID.

b) Should ControlWorks elect, at any time and for any reason other than a breach of this agreement, to discontinue offering a Service, ControlWorks will refund to those accounts activated on an annual subscription basis a prorated balance of the service term to the original form of payment; no refund will be made to those accounts activated on a one-time payment basis or for accounts for which no payment was received.

### **VIII. Module Code**

a) All Modules provided in conjunction with access to a ControlWorks Service are encrypted. You may not reverse engineer, decompile or otherwise attempt to open or modify the source code for any of these modules. Should ControlWorks determine that a Module has been modified, ControlWorks may, without notice, terminate or suspend access to the affected account(s) or Client IDs.



## **IX. Indemnification and Hold Harmless, Applicable Law and Jurisdiction**

- a) You agree to Indemnify and Hold Harmless ControlWorks Consulting, LLC, it's agents, employees, directors, and all other affiliated parties from any and all claims or any type whatsoever related to the Services or the Modules; including, without limitation, the use, inability to use, or attempt to use the Service or the Module by You or your Client.
- b) You agree and Covenant that Client, and any other parties whom have beneficial use of the module, have entered into a substantially similar agreement with You, including the indemnification contained in paragraph (a) above.
- c) In no event shall Our sum liability for any claim exceed the sum of US\$100.00 (One hundred dollars United States Currency)
- d) Headings are provided for convenience only and do not form a part of this Agreement and shall not be used in construing this Agreement.
- f) In the event any provision of this Agreement is found to be invalid, illegal or unenforceable, the validity, legality and enforceability of any and all of the remaining provisions shall not in any way be affected or impaired and a valid, legal and enforceable provision of similar intent and economic impact shall be substituted therefore.
- e) These Terms of Service shall be construed in accordance with the laws of the State of Ohio, without regard to its conflicts of laws principles. Each party hereby consents to the jurisdiction over it and venue in any court of competent jurisdiction in Cuyahoga County, Ohio, United States of America and any action relating to or in any way arising from this agreement, the use, misuse or inability to use the Service or Module, shall be filed only in a court of competent jurisdiction in Cuyahoga County, Ohio, United States of America. Notwithstanding the foregoing, any judgment may be enforced or and collected in any jurisdiction without limitation and each party hereby consents to such jurisdiction.



## **X. Modification of Agreement**

ControlWorks reserves the right to modify these terms at any time. Such revision shall be effective as of the date posted on ControlWorks website at <http://www.controlworks.com/>

ControlWorks shall not be bound by any oral or written statement by an employee or other agent of ControlWorks purporting to modify these terms, unless posted to ControlWorks website at <http://www.controlworks.com/>