

## **AcuStaf Software Service Agreement**

This **Software Service Agreement** ("Agreement") is made between **AcuStaf Development Corp** ("AcuStaf"), a Minnesota corporation located at 5001 American Boulevard West, Suite 900, Bloomington, MN 55437, and \_\_\_\_\_, (Customer") located at \_\_\_\_\_.

1. AcuStaf grants to Customer, pursuant to the following terms and conditions, a temporary, non-exclusive, non-transferable right to use **AcuStaf's software, equipment and documentation** (hereinafter collectively "Software") for a monthly fee as described in **Exhibit A –Software Service**.

a. Use on Designated Equipment. The Software shall be used only on the computer server(s) designated by AcuStaf.

b. Network Access. The Software may be accessed by an unlimited number of Customer terminals located on or off Customer premises.

2. Software Ownership. AcuStaf represents that it or an affiliate is the owner of the Software and all portions thereof.

a. Modifications. Only AcuStaf shall have the right to modify, maintain, enhance or otherwise alter the Software.

b. Reverse Engineer. Under no circumstance shall Customer reverse engineer the Software to develop similar software.

3. Title to Software and Confidentiality. The Software is proprietary to AcuStaf and title to it remains with AcuStaf. All applicable rights to copyrights, trade secrets, patents and trademarks in the Software or any modifications or enhancements made by AcuStaf or Customer or at Customer's request shall remain with AcuStaf. Customer shall not sell, publish, disclose, display, or otherwise make available the Software or copies thereof to others. Customer agrees to secure and protect the Software in a manner consistent with the maintenance of AcuStaf's rights therein and to take appropriate action by instruction or agreement with its employees, agents or consultants who are permitted access to the Software to satisfy Customer's obligations hereunder.

a. Compatibility requirements. All equipment configurations must be approved by AcuStaf in advance to ensure Software compatibility.

b. Confidential Information. AcuStaf shall keep Customer information confidential.

c. Warranty. AcuStaf warrants, for the term of this Agreement, that the Software will conform to all substantial operational features set forth in Exhibit A and AcuStaf will use its best efforts to correct any Software defects that may arise.

4. Taxes. Customer shall, in addition to the amounts payable under this Agreement, pay all sales, use, value added or other taxes, federal, state or otherwise, however designated,

## **AcuStaf Software Service Agreement**

which are levied or imposed by reason of the transactions contemplated by this Agreement.

5. Assignment. Customer may not assign the Software or this Agreement to anyone, including any parent, subsidiary or affiliate or as part of the sale of any portion of its business, or pursuant to any merger, consolidation or reorganization, without AcuStaf's prior written consent. AcuStaf will generate replacement contracts resulting from any sale, partial sale, merger, consolidation or reorganization.

6. AcuStaf user roles. Customer shall notify and routinely update AcuStaf of all individuals assigned to the following AcuStaf user roles: Executive Sponsor, System Administrator, HR Manager, Payroll Manager, Finance Manager, Schedule Manager, Staffing Manager, IT Manager, and Help Desk Manager.

7. Termination. Either party shall have the right to terminate this agreement with 30 days written notice for any reason. Upon termination, Customer agrees to return all Software, equipment and documentation to AcuStaf within 15 days after termination date.

### 8. General

a. Force Majeure. Neither party will be liable to the other by reason of any failure to perform under this Agreement if the failure arises out of the acts of a third party, acts of God, acts of governmental authority (but excluding acts of a Regulatory Agency), fires, floods, strikes, labor difficulties, equipment failure, delays in transportation, riots or war, or any other causes beyond the reasonable control and without the fault of that party.

b. Arbitration. Any unresolved disputes concerning this agreement shall be submitted to arbitration before an arbitrator agreed upon by the parties, or if the parties cannot agree upon an arbitrator within sixty- (60) days, to an arbitrator appointed by the American Arbitration Association. The site of the arbitration shall be Minneapolis, Minnesota and the arbitration shall be conducted under the rules then prevailing of the American Arbitration Association. The arbitrator may award attorneys' fees and costs as part of his award. The award of the arbitrator shall be binding and may be entered as a judgment in any court of competent jurisdiction. The maximum award shall not exceed the total services rendered for the past 12 months.

c. Complete Agreement. Each party acknowledges that it has read and understands this Agreement and agrees to be bound by its terms. The parties further agree that this Agreement, including Exhibits A and B, is the complete and exclusive statement of the Agreement between the parties, which supersedes and merges all prior proposals, understandings and all other agreements, oral or written, between the parties relating to this Agreement. This Agreement may not be modified or altered except by written instrument duly executed by both parties. AcuStaf

**AcuStaf**  
**Software Service Agreement**

reserves the right to update this contract to keep current with industry standards and changes.

d. Notices. All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested. Notices to AcuStaf shall be addressed to:

President,  
AcuStaf Development Corp,  
5001 American Boulevard West, Suite 900,  
Bloomington, MN 55437

e. Governing Law and Jurisdiction. This Agreement and performance hereunder shall be governed by the laws of the State of Minnesota. The sole jurisdiction for any legal proceedings under this agreement shall be Minnesota.

f. Severability. If any provision of this Agreement is invalid, illegal or unenforceable under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the remaining provisions shall not be affected in any way.

Accepted by:

**AcuStaf Development Corp.**

**Customer**

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

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

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

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# AcuStaf Software Service Agreement

## Exhibit A –Software Service

### Includes:

#### Server hardware:

Offsite, server resides at AcuStaf data center  
or Onsite, server resides at your data center

#### Labor Management Software:

Staffing  
Scheduling  
Workload  
Time and Attendance  
Benefit Accrual  
Tracking  
Finance  
Pay Rule Automation  
HR Component  
Reports Component

#### Interfaces to Current Systems:

Payroll  
Human Resources  
ADT  
Time & Attendances  
Patient Classification  
HL7

#### Maintenance and Support:

Labor Management Software  
TRAX Time Clocks

#### TRAX Time Clock: 1 included:

Trax Reader  
Battery backup  
Power via Ethernet

### Does not include:

On-site hardware installation service  
Workstations, service providers and networking hardware to access web

## AcuStaf Software Service Agreement

### Exhibit B –Price Quotation

Hosted Monthly Service:	
-Per Active Employee*	\$
Trax Badge Readers	
-Units ordered 0	\$ NA
-1 Clock provided at no charge	
One Time Setup Fee	\$ 2,500.00

Additional Services: Requires pre-approval from Customer

Terms: Net 30 days on all invoices.

Upon contract signing:

Down payment in amount of xx (first month's service fee xxx active employees @ \$xx/ee/month, plus One Time Setup Fee \$2,500.00) is due. Down payments first month service fee will be credited against future billing. Planned go live xxxxxx. Monthly fee will be due the first of each month. Should the project start before xxxxxx, the billing date will be moved up appropriately and prorated for any partial month billing.

Monthly billing will be based on active employees each month. Estimated at xxx employees per month, plus 1 clock provided at no-charge.

\*Active employee is defined as any paid personnel, or contracted workers that work during the course of a month.