

Your Data Processing Contract with CU*Answers

Responding to the NCUA's
*The Basics of Data Processing
(and Other Technology Service) Contracts*

February 14, 2017

Introduction

Late in 2016 the NCUA Office of Small Credit Union Initiatives (OSCUI) published a white paper on *The Basics of Data Processing (and Other Technology Service) Contracts*. Some of you may be wondering about, or need to respond to, the checklist at the end of this document with respect to the terms and conditions of CU*BASE. We are here to help!

This document can help you understand what CU*Answers has done to establish a healthy cooperative contractual relationship with our clients and client-owners regarding the use of CU*BASE and our other software products. CU*Answers has many resources available to you to help you understand how CU*Answers conducts business, with cooperative principles in mind and fairness to our clients and client-owners.



CU*Answers Background

CU*Answers is a proven 45-year cooperative CUSO providing a variety of technology solutions for credit unions of every size nationally. For instance, we currently provide comprehensive data processing services to 250+ credit unions, serving over 2.2 million members on a daily basis. Our informative website is located at www.cuanswers.com.

CU*Answers offers an ownership and equity model that is a key differentiator when compared with other data processors. We believe that equity is a two-way street, and when credit unions become part of the CUSO, they become vested with their participation as a form of equity. Equally important, CU*Answers then sets a goal to become vested in the business plans of our partners, showing a true interest and sincere desire to fulfill the goals of our credit unions to the best of our ability.

As a 100% credit union-owned CUSO CU*Answers maintains a single, crystal clear vision – **we value the power of credit unions working together to serve their members**. We routinely work with our client-owners to develop the very best credit union solutions, seeking their direct input in a variety of ways and then putting our teams to work to make those solutions a reality. The result is products that are designed to provide the building blocks for credit unions to fulfill their mission of offering superior member products, service and personalized support.

CU*Answers Data Processing Contract Structure

CU*Answers uses a Master Services Agreement as the primary Agreement, and Schedules for individual services or software we provide. (Schedule A is Data Processing). The reason CU*Answers constructs our contracts this way is so you, the client, do not need to sign a huge agreement every time you add a service provided by CU*Answers or our partner organizations. If you are on our latest Master Agreement, the contract is divided into sections to allow you or your legal counsel to quickly review:

ARTICLE I: SERVICES AND SOFTWARE LICENSES

This provides the terms and conditions for all services and software provided by CU*Answers.

ARTICLE II: TERM AND TERMINATION

Provides information on the conditions for terminating the agreement, and what happens if the client and CU*Answers wind down their relationship.

ARTICLE III: COMPLIANCE AND CONFIDENTIALITY

Details the compliance and confidentiality requirements of CU*Answers to do business with financial institutions.

ARTICLE IV: REMEDIES, INDEMNIFICATION, AND WARRANTIES

How disputes are resolved within our cooperative, and under what circumstances CU*Answers is responsible for losses to the credit union.

ARTICLE V: AMENDMENT, CONFLICTS, SALE AND ASSIGNABILITY

How to amend the agreement, and what happens if one of the party's changes control/ownership.

ARTICLE VI MISCELLANEOUS TERMS AND CONDITIONS

Basic rules around the agreement, such as jurisdiction and venue.

CU*Answers prides itself on having terms that are fair to both our credit union clients and our cooperative. We are owned by credit unions, and only credit unions, and exist to serve your needs.

NCUA Contract Review Checklist

The NCUA's document provides a basic overview of common terms and conditions in data processing contracts, and then unsurprisingly provides a checklist at the end of the document. We understand that you may at some point wish or need to answer these questions; here is a quick reference guide to help you out.

Provide a complete and detailed description of the product or service provided by the service provider?

Our Schedule A offers an overview of the services we provide to you through CU*BASE. While the basic services do not change, there is always an enormous amount of development activity with our software. If you want the latest information, you can go online and visit our Kitchen page at <https://www.cuanswers.com/resources/doc/release-planning/>.

Clearly define the cost of the products and services for the duration of the contract?

CU*Answers provides up to date pricing information through our *Pricing Guides*. You can go online and review the *Guides* at <https://www.cuanswers.com/resources/doc/pricing-guides/>.

Term align with the credit union's other services, future business needs or both?

CU*Answers does provide discounts for data processing services when the contracts are for larger terms. However, CU*Answers is willing to work with our clients to set up terms that the credit union needs.

Outline the responsibilities of the credit union and service provider, and address subcontracted services and oversight?

CU*Answers covers most of these responsibilities in Article I of our Master Services Agreement.

Contain service-level agreements, including measurable service standards, performance reporting, and remedies for failure to meet the defined standards?

CU*Answers has a highly available (HA) data processing system, with a team dedicated to managing the infrastructure and limiting downtime. While this is addressed in the agreement, more up-to-date details can be found at our Business Resumption site at <https://www.cuanswers.com/2015/04/the-pulse-brought-to-you-by-the-cuanswers-disaster-recoverybusiness-resumption-team-3/>.

Address the ownership, rights to, and allowable use of the credit union's data, equipment or hardware, system documentation, system and application software, and other intellectual property rights?

CU*Answers contractually recognizes that credit unions own their data. CU*Answers has no property rights in the equipment owned by the credit union, but may control the standards by which CU*BASE can be used (for example, no longer supporting certain older versions of Internet Explorer when accessing **It's Me 247**).

Specify the type and frequency of audits the service provider will undergo, reporting of audit results, and associated fees?

CU*Answers does not specify the audits it may undergo because they are subject to change. However, we do engage in public audits (currently SSAE, ACH, and Financial Audits). These audits can be found here: <https://www.cuanswers.com/about/due-diligence-materials/>.

Describe the service provider's responsibility for the security and confidentiality of the credit union's information and hardware?

This subject is extensively covered in Article III of our Master Services Agreement.

Address the service provider's responsibilities for backup and record protection, including equipment, program and data files, and maintenance of disaster recovery and contingency plans?

In Article III, CU*Answers agrees to have a comprehensive disaster recovery program. As mentioned above, details of the disaster recovery program can be found online at <https://www.cuanswers.com/tag/disaster-recovery/>.

Specify the types of insurance coverage the service provider will maintain?

CU*Answers does not contractually specify the insurance coverage, but will provide our insurance coverage information upon request.

Describe all member support services and how the service provider will handle member complaints?

CU*Answers does not provide direct support services to the members.

Require the service provider to comply with applicable regulatory requirements and include Gramm-Leach-Bliley compliant provisions for privacy and security?

These requirements are comprehensively covered in Article III of the Master Services Agreement.

Indemnify the credit union from liability arising from the service provider's negligence?

Indemnification provisions are in Article IV of the Master Services Agreement.

Contain reasonable or proportional limits on the liability that can be incurred by the service provider?

Liability limits are provided in Article IV of the Master Services Agreement.

Provide a fair and timely dispute resolution process and require the service provider to continue providing services during the dispute resolution period?

Information on dispute resolution is available in Article IV.

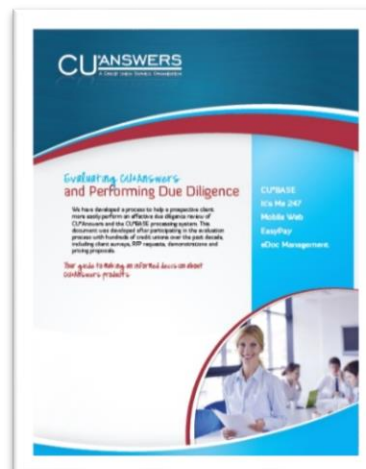
Contain termination rights for various conditions, notice and timeframe requirements, and related fees?

The termination rights and so forth can be found in Article II.

Additional Resources: CU*Answers Due Diligence

CU*Answers offers a large number of resources you can provide to your Board or Examiners when it comes to due diligence. For example, we provide the *Evaluating CU*Answers and Performing Due Diligence* brochure, which goes into detail as to what we offer you, the client, in terms of evaluating CU*Answers.

Below is a sample of the information we provide to our clients when performing due diligence on our cooperative data processor:



*To offer a proven strategy for making an informed decision about CU*BASE as a data processing system and CU*Answers as a strategic partner, we gathered information from clients who recently performed such an evaluation. This document highlights the 5 most common steps used in their evaluation process. Although any of these events may be circumvented, this is the approach that clients have told us worked for them. It may also be a helpful roadmap when evaluating other solution providers. These steps include:*

1. *Performing Preliminary "Homework"*
 - *CU*Answers CUSO Cooperative Business Model - What it means.*
 - *CU*BASE Processing System*
2. *Detailed Client Surveys*
 - *Product Review Survey*
 - *Hardware Review Site Survey*
 - *eDocument Image Survey*
 - *Network Services Security Survey*
 - *Web Site Development/Hosting Review*
3. *CU*BASE Product Demonstration(s)*
4. *Comprehensive Pricing Proposal*
 - *CU*BASE SaaS or In-house Proposal*
 - *Hardware Proposal (including eDOC management strategy)*
 - *Network Services Security Proposal*
 - *Web Services Proposal (optional)*
5. *Contract Review, Negotiations and Signing*