

Terms and Conditions

These **Terms and Conditions** apply to all services provided by Tech Guru Consulting Inc., under any Professional Services Agreement (together with these Terms and Conditions, the “Agreement”) executed by Tech Guru Consulting Inc. and its customers (each, “Customer”). Capitalized terms set forth but not defined herein will have the meanings ascribed to them in the applicable Professional Services Agreement. Tech Guru Consulting Inc reserves the right to update these **Terms and Conditions** as deemed necessary by Tech Guru Consulting Inc.

This Agreement may change from time to time without notice. Customer is advised to review this Agreement from time to time. Use of the Services after this Agreement has been revised constitutes agreement by Customer to such revisions.

1. Change Orders

Target dates specified in any SOW are estimated and may vary depending on deviations in the scope of the project and Customer’s requirements. Without limiting the foregoing, from time to time Customer or Tech Guru Consulting Inc. may request a material change in any SOW that has then been mutually executed by proposing the same in writing (each, a “Change Order”). No Change Order will take effect, if at all, until mutually agreed upon and executed by the Parties, each in its sole discretion, whereupon such Change Order will constitute an amendment to the applicable SOW and be governed hereby. In the event that Customer, without performing the Change Order process set forth in this Section 0, materially changes any of the specifications or requirements of the Services, or delays the delivery to Tech Guru Consulting Inc. of any required resource or information so as to adversely affect or delay Tech Guru Consulting Inc.’s performance hereunder, Tech Guru Consulting Inc. will be entitled to modify the SOW in a manner commensurate therewith, and such modified SOW will be binding upon the Parties.

2. Fees

Fees are set forth in the SOW. Customer will make cash payments to Tech Guru Consulting Inc. within by negotiable instrument drawn on U.S. funds, by wire transfer to such account as Tech Guru Consulting Inc. will specify, or by such other means to which the Parties may mutually agree from time to time. Payments not received by Tech Guru Consulting Inc. when due will, at Tech Guru Consulting Inc.’s sole discretion, be subject to a finance charge from the due date until the payment is made at a rate equal to the lesser of 5% compounded monthly or the maximum amount allowable under applicable law. Bank fees for returned checks will be reimbursed by Customer. Tech Guru Consulting Inc. will have the right to terminate this Agreement immediately upon written notice if Customer does not make any payment when it becomes due and payable hereunder or if any check presented is returned due to insufficient funds. Customer will reimburse Tech Guru Consulting Inc. for its pre-approved, documented, out-of-pocket expenses in performing the Services, including without limitation travel, lodging, meals, shipping, courier, reproduction, postage, long-distance telephone charges, materials, and automobile mileage. If Customer requests that materials needed to perform the Services are to be purchased by Tech Guru Consulting Inc. rather than directly by Customer, Customer will be invoiced for the cost of the materials plus a twenty percent (20%) handling fee. All fees for Services specified herein are exclusive of any U.S. federal, state, or local sales, excise, use, value-added, or other taxes and tariffs. Customer will pay all taxes that, as per applicable law, accrue to the buyer or beneficiary of services of the type provided by Tech Guru Consulting Inc. to Customer hereunder.



3. Personnel

Each Party’s personnel and subcontractors provided in performance of the Services will at all times remain under the direction and control of such Party. Each Party will be responsible for all payroll taxes, unemployment insurance payments, and other obligations of employers with respect to its own personnel.

4. Service Level Agreement

Tech Guru Consulting Inc. will respond to service requests in accordance with the following table. Should Tech Guru Consulting Inc. fail to maintain a 73% first call resolution over the course of any contiguous 120-day period, Customer retains the right to terminate this Agreement upon 60 days written notice. Tickets deferred by the end user or Customer will be counted as having met the Service Level Objective (the “SLO”). In the event Tech Guru Consulting Inc. support personnel are unable to reach the end user for ticket resolution after 1 attempts in an 12 business hour period, those tickets will be counted as having met the SLO. The SLO metrics will only apply to tickets opened by Customer or their agents for contracted equipment and listed additional requirements in the contract. Any system generated tickets will not be included in the SLO metrics. Tickets relating to project work outside of the scope of the applicable SOW will be excluded from the SLO metrics.

Level	Definition	SLO - TTE
Priority 1 Urgent (as determined by Tech Guru Consulting Inc. staff)	Any request that requires immediate action as it is business critical/urgent; disabling of user account; password reset; removals of bad patches; critical service restarts or reboots; enabling alerts on special cases; issues relating to VSA functionality will be directed to Product Support; issue that affects more than 3 end users.	Remote Response – 45 minutes (DBH) 2 hour (ABH) Onsite Response – 3 hours (DBH) 4 hours (ABH) (or as scheduled) TTE – 90 minutes Entry points: Phone Only
Priority 2 High	Any request which is important but may not require immediate action such that it is not business critical/urgent; time sensitive issue reported by Customer which may adversely affect one or more users, but does not cause a significant loss of usability.	Remote Response – 60 minutes (DBH) 1.5 hours (ABH) Onsite Response – 4 hours (DBH) 6 hours (ABH) TTE – 1 hour Entry points: Phone, Email, or Portal
Priority 3 Normal	Moderate loss of functionality or performance resulting in minor performance degradation/not impacting production; any request which is important but does not require action to be taken on high priority; system is up and running but the problem causes non-negligible impact (ex: a report can be triggered manually but does not run when scheduled); issue that typically affects a single end user.	Remote Response – 30 minutes (DBH) 4 hours (ABH) Onsite Response - 24 hour (or as scheduled) Entry points: Phone, Email, or Portal
Priority 4 Low Scheduled Activity Low/Informational	Minor loss of functionality; any new service/offering requests; how-to questions; issue consists of “how-to” questions including issues related to IT Services or Products; any request which has little impact on completion of task on moderate priority; issue that typically affects a single end user.	Remote Response – 60 minutes (DBH) 2 hours (ABH) Onsite Response – 24 as scheduled TTE – 24 hours (or as scheduled) Entry points: Phone, Email, Portal, or Systemic Alert



5. Insurance

Tech Guru Consulting Inc. maintains a commercial general liability insurance policy and other related policies at levels deemed appropriate by Tech Guru Consulting Inc.. Upon request, Tech Guru Consulting Inc. will provide evidence the existence of such insurance policies to Customer. Upon Tech Guru Consulting Inc.'s request, Customer will obtain appropriate supplemental insurance policies to cover the activities undertaken by Tech Guru Consulting Inc. related to the Services and will provide evidence to Tech Guru Consulting Inc. that Customer has obtained such supplemental policies. Ownership of Deliverables

- a. Upon delivery by Tech Guru Consulting Inc. of, and payment in-full by Customer for, any work product or other materials created by Tech Guru Consulting Inc. in furtherance of the Services ("Deliverables"), ownership of all right, title, and interest (including ownership of all intellectual property rights) therein and thereto will vest in Customer, the same hereby being deemed to be specially commissioned works made for hire, or in any event being hereby assigned and exclusively licensed from Tech Guru Consulting Inc. to Customer in perpetuity. Tech Guru Consulting Inc. will, at Customer's expense, take reasonable actions and provide any assistance that may reasonably be required by Customer to perfect Customer's ownership rights in and to the Deliverables as aforesaid, to obtain statutory registration therefor, and to assert the same against third parties.
- b. Notwithstanding the provisions of Section 5(a), Tech Guru Consulting Inc. will exclusively own all right, title, and interest (including all intellectual property rights) in and to all portions of any Deliverables that constitute Tech Guru Consulting Inc.'s pre-existing works, general tools, and general knowledge (the "Licensed Deliverables"), and the Licensed Deliverables will also include any open-source software and any other software or materials licensed from a third Party and delivered by Tech Guru Consulting Inc. hereunder, as well as any Deliverables designated as "Licensed Deliverables" on any applicable SOW. Tech Guru Consulting Inc. hereby grants to Customer a nonexclusive, worldwide, perpetual, fully paid-up license in and to all Licensed Deliverables to use the Licensed Deliverables in connection with Customer's use of the Services and other Deliverables, if any.

6. Confidentiality

- a. The Parties acknowledge and agree that in their performance hereof, each ("Recipient") may receive or be exposed to the proprietary and confidential information of the other ("Owner") that is designated orally or in writing as being confidential ("Confidential Information"). Recipient will use Owner's Confidential Information solely in furtherance of Recipient's performance hereunder and for no other purpose whatsoever. Recipient will not disclose Owner's Confidential Information to any third parties except to Recipient's trusted employees having a legitimate need to know in furtherance of Recipient's performance hereunder and who are bound by confidentiality obligations at least as restrictive as those hereof. Confidential Information will not include information that: (i) was lawfully known by Recipient without an obligation of confidentiality before its receipt from Owner; (ii) is independently developed by Recipient without reliance on or use of Owner's Confidential Information; (iii) is or becomes publicly available without a breach by Recipient of this Agreement; or (iv) is disclosed to Recipient by a third party under no obligation to maintain its confidentiality. If Recipient is requested to disclose any Confidential Information as part of an administrative or judicial proceeding, Recipient will, to the extent permitted by applicable law, promptly notify Owner of that request and cooperate with Owner, at Owner's expense, in seeking a protective order or similar confidential treatment for the Confidential Information. If no protective order or other confidential treatment is obtained, Recipient will disclose only that portion of Confidential Information that is legally required and will exercise all reasonable efforts to obtain reliable assurances that confidential treatment will be accorded the Confidential Information to be disclosed.



- b. Recipient acknowledges that the Confidential Information of Owner is unique and valuable, and that remedies at law will be inadequate to protect Owner from any actual or threatened breach of this Section 7 by Recipient and that any such breach would cause irreparable and continuing injury to Owner. Therefore, Owner will be entitled to seek equitable relief with respect to the enforcement of this Section 7 without any requirement to post a bond, including without limitation injunction and specific performance, without proof of actual damages or exhausting other remedies, in addition to all other remedies available to Owner at law or in equity.
- c. Without limiting the foregoing provisions of this Section 7, Customer hereby acknowledges and agrees that Tech Guru Consulting Inc. performs services similar to the Services for a variety of clients, and nothing herein will be construed to limit Tech Guru Consulting Inc.'s absolute freedom to perform such services for such clients, even in the event that such clients are competitors of Customer's.

7. **Non-solicitation**

During the term hereof and for a period of 2 years after the termination hereof, Customer will not directly solicit for employment, hire away, or otherwise engage any employee or independent contractor or Tech Guru Consulting Inc.. It will not constitute a breach hereof for Customer to hire or engage any person responding to Customer's public solicitations for employment not specifically targeted at such person or Tech Guru Consulting Inc.'s personnel.

8. **Warranties**

- a. Each Party hereby represents and warrants to the other Party that it: (i) has the right to use and provide all information and materials provided by it hereunder; and (ii) is not precluded by any judicial order or any fiduciary or contractual obligations from performing its obligations hereunder.
- b. Customer hereby represents and warrants that: (i) all relevant software that will be serviced in relation to this Agreement will be continuously updated to the latest versions of such software; (ii) all relevant servers that will be serviced in relation to this Agreement will be continuously updated every 5 to 7 years, and; (iii) all out of support software will be updated within 6 months of the Operating System end of life expiration.
- c. Except as otherwise provided in this Agreement, Tech Guru Consulting Inc. does not provide any warranty with respect to Services or Deliverables, which ARE PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

9. **Limitation of Liability**

IN NO EVENT WILL EITHER PARTY BEAR LIABILITY OF ANY KIND TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES, OR LOST PROFITS, EVEN IF ADVISED OF THE POSSIBILITY THEREOF AND REGARDLESS OF THE THEORY UNDER WHICH THEY ARE PURSUED. EACH PARTY'S MAXIMUM LIABILITY TO THE OTHER FOR EVERY REASON HEREUNDER SHALL IN THE AGGREGATE NOT EXCEED THE AMOUNT OF FEES PAID BY CUSTOMER DURING THE THEN PRECEDING 30 DAYS.



10. **Indemnification**

Each Party will indemnify, defend, and hold harmless the other Party and its agents from and against, and at the indemnifying Party's option, settle, all third-party lawsuits, claims, and proceedings brought against the indemnified Party or its agents arising from any act or omission of the indemnifying Party constituting gross negligence or willful misconduct.

11. **Term**

The term of this Agreement will begin on the Effective Date and will remain in full force and effect for the period of time during which any mutually executed SOW is in force and effect and being performed by either Party, and will automatically renew on a Renewal Term as defined in the then-active SOW thereafter until such time as no SOW has then been in effect between the Parties for a period of 1 year, subject to the terms of Section 13 hereof.

12. **Termination**

a. Either Party may terminate this Agreement for cause upon 60 days' prior written notice to the other Party in the event of a material breach of any of the terms hereof by such other Party, provided that such breach has not been cured within such 60 day period. Tech Guru Consulting Inc. will have the right to terminate this Agreement in accordance with Section 1. Either Party may terminate this Agreement for its convenience or without cause upon 30 days' written notice to the other Party. Upon termination by either Party, among other things, Tech Guru Consulting Inc. will retain no responsibility for maintenance, upkeep, repair, or other modification of any Deliverables or Services.

b. During a Renewal Term, Customer may terminate this Agreement for its convenience or without cause upon 90 days' prior written notice to the Tech Guru Consulting Inc. Final Billing and any Licensing fees remaining will be due .

c. Tech Guru Consulting Inc reserves the right to terminate this Agreement for its convenience or without cause upon 30 days' prior written notice to the other Party. Final Month of Service and Licensing fees remaining will be due upon this notice.

13. **Survival**

The provisions of Sections 6, 9, 10, 11, 15, and this Section 14 will survive termination hereof in perpetuity. The provisions of Section 7 will survive termination hereof with respect to each item of Confidential Information until such time as such item no longer constitutes Confidential Information pursuant to clauses

(i) through (iv) of Section 7(a). The provisions of Section 8 will survive termination hereof for 2 years. Any payment provisions of any SOW that by their terms survive termination hereof will so survive.

14. **General Provisions**

a. **Effect; Assignment**. This Agreement will be binding upon the Parties and their respective successors and permitted assigns. Either Party may assign this Agreement to its successor in interest by way of merger or acquisition upon written notice to the other Party.

b. **Publicity**. Tech Guru Consulting Inc. may publicly identify Customer as a customer by using Customer's name, logo, and related graphics in Tech Guru Consulting Inc.'s marketing materials from time to time.



- c. Independent Parties. The Parties are and will remain independent contractors and this Agreement will not be construed to establish any fiduciary relationship or other relationship of partnership, joint venture, employment, franchise, or agency between them. Neither Party will have the authority to bind the other or incur obligations on the other's behalf without the other's prior written consent in each instance.
- d. Agreement. This Agreement (including these terms and conditions and all SOW's) constitute the entire agreement of the Parties, superseding all other prior and contemporaneous understandings and discussions pertaining to the subject matter hereof. This Agreement may not be amended except in writing signed by both Parties on paper. No modification of this Agreement may be affected via SMS text or other potentially non-persistent media. If any provision of a mutually-executed SOW contradicts or amends this Agreement by citing the specific provisions hereof to be so amended, then such SOW provision will supersede the applicable provision(s) hereof; otherwise the provisions of this Agreement will prevail over the provisions of any SOW, to the extent that they differ.
- e. Waiver. Either Party's failure to require strict compliance by the other with respect to its performance hereunder will not be construed as ongoing or as a waiver of the waiving Party's right to later enforce any provision hereof.
- f. Severability. If a provision hereof should be held to be invalid or unenforceable, the same will be reformed to the minimum extent possible to be rendered valid and enforceable, and it will not affect any other provision hereof.
- g. Governing Law; Dispute Resolution. This Agreement will be construed and enforced in accordance with the laws of the State of Florida, without regard to the internal law of Florida regarding conflicts of laws. With respect to any suit, action or proceeding relating hereto, each Party hereby irrevocably submits to the exclusive jurisdiction of the courts of competent jurisdiction located in or proximal to Bradenton, Florida, and waives any objection thereto. The prevailing Party to any dispute will be entitled to reimbursement of its fees and costs from the other Party.
- h. Notices. Written notices hereunder will be deemed perfected if delivered to a Party using its respective contact information set forth above: (i) by hand or in-person delivery; (ii) by email with receipt confirmed; or (iii) by certified mail, registered mail, or courier service, with return-receipt received, to the Party at the address set forth above. SMS text message communications will not constitute written notice hereunder.
- i. Counterparts. This Agreement may be executed in one or more counterparts, which will constitute one and the same instrument. Faxed and digitally scanned copies hereof will constitute originals.

