

## TCS PROFESSIONAL SERVICES TERMS AND CONDITIONS

The TCS Professional Services Terms and Conditions (PS Terms) outline the specific terms and conditions that govern the purchase of Professional Services by the Customer under a Statement of Work (SOW). These PS Terms are designed to complement the terms and conditions stated in the Service Agreement and any relevant Statement of Work. In case of any conflict or inconsistency between these PS Terms and the terms within the Service Agreement or any Statement of Work, the conflict will be resolved by following this order of precedence:

1. The terms specified in the Statement of Work will take precedence.
2. These PS Terms will be given precedence if there is a conflict between them and any other terms.
3. The Service Agreement will take precedence if there are any discrepancies with the terms mentioned in it.

This hierarchical approach ensures clarity and consistency in resolving any conflicts or inconsistencies that may arise during the execution of the Professional Services. It ensures that the terms specified in each document are appropriately considered and applied based on their relative priority.

TCS may elect to change or supplement these PS Terms from time to time at its sole discretion. TCS will exercise commercially reasonable efforts to provide notice to Customer of any material changes to these PS Terms. Within ten (10) business days of posting changes to these PS Terms (or ten (10) business days from the date of notice, if such is provided), they will be binding on Customer. If Customer continues receiving Professional Services after such ten-business-day period, Customer will be deemed to have accepted the changes to these PS Terms.

Capitalized terms used but not defined herein shall have the meanings ascribed in the applicable Service Agreement or Statement of Work, as applicable.

### 1. Definitions.

- a. "Change Order" is defined in Section 4(a).
- b. "Confidential Information" means all information disclosed by or on behalf of a Party (the "Disclosing Party") to the other Party (the "Receiving Party") in tangible or intangible form and labeled or otherwise indicated to be "confidential" (or with a similar legend), or which a reasonable person would understand to be confidential given the nature of the information or the circumstances under which it was disclosed. Confidential Information may include, without limitation, proprietary information, technical data, trade secrets, know-how, source code, binary executables, documentation, research, technique, process, sales and marketing plans, customer information, product plans, the Deliverables, and other business or financial information. Notwithstanding the foregoing, Confidential Information shall not include information that (i) was already known to the Receiving Party at the time of disclosure by or on behalf of the Disclosing Party without an obligation of confidentiality; (ii) was or is obtained by the Receiving Party from a third party not known by the Receiving Party to be under an obligation of confidentiality with respect to such information; (iii) is or becomes generally available to the public other than by violation of these PS Terms or the Service Agreement; or (iv) was or is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information.
- c. "Deliverables" is defined in Section 9(a).
- d. "Intellectual Property Rights" means all right, title, and interest to any patents, inventions, copyrights, trademarks, domain names, trade secrets, know-how, and any other intellectual property and/or proprietary rights anywhere in the world.
- e. "Professional Services" is defined in Section 2.
- f. "Project" means the Professional Services project provided by TCS to Customer and further described in a SOW.
- g. "Service Agreement" means the TCS Terms of Service or a Master Subscription Agreement (or equivalent service agreement) in the case where Customer and TCS have entered into a separate mutually executed written service agreement. As used in these PS Terms, "Customer" means the party purchasing the PS Service and referred to as "You" in the TCS Terms of Service or "Customer" in a Master Subscription Agreement, or such other name as reflected in the agreement (each, as applicable). The applicable Service Agreement is incorporated into these PS Terms by this reference.
- h. "Service Expenses" is defined in Section 5(c).
- i. "Statement of Work" is defined in Section 2.
- j. "T&M" means the time and materials of TCS associated with the provision of Professional Services, paid by the hour based on TCS's then-current hourly rate for Professional Services.
- k. "Taxes" is defined in Section 5(f)(i).
- l. "TPM" means the TCS Technical Project Manager who acts as the single point of contact for the provision of Professional Services under a SOW.

m. "TCS Personnel" means TCS employees providing the Professional Services.

**2. Professional Services Overview.** TCS shall provide the implementation, assessment, design installation, consulting, configuration, project management, and other professional services ("Professional Services") as described and agreed upon in writing between the Parties pursuant to a statement of work ("Statement of Work" or "SOW"). For purposes of these PS Terms, a Statement of Work includes any ordering process incorporating these PS Terms by reference. The Parties each agree to use commercially reasonable efforts to ensure the Project reflected in each SOW begins within three (3) months of the SOW's effective date. Any and all TCS Services must be purchased separately from Professional Services and at additional cost.

**3. Customer Sites and Site Visits.** In the event the Parties agree that the Professional Services must be performed at one or more Customer facility(ies) ("Site(s)"), the Site(s) will be separately identified in the applicable SOW. Each visit to a separate Customer Site will be considered a separate "Site Visit". Customer has the following obligations with respect to all Site Visits:

- a. Customer will maintain and ensure safe working conditions at each Site and shall promptly inform the TPM of any known hazardous conditions at any Site prior to any visit by TCS Personnel.
- b. Customer shall ensure that all Site hardware and network environment meets or exceed the requirements set forth in the Statement of Work and in any documentation provided by TCS.
- c. Customer shall promptly provide TCS with all reasonable information, cooperation, and assistance that TCS requests in connection with performing the Professional Services, including without limitation providing TCS with access to Customer's systems and networks and related system and network administrators as may be further described in the SOW. Any failure on the part of Customer to provide the cooperation requested by TCS, or to provide the information or hardware and software environment required, may result in the need for a Change Order to contemplate additional fees and extended timelines to accommodate Customer's failure to do so.
- d. The Parties acknowledge and agree that Customer's change of the dates or location of a Site Visit at any time during the ten (10) business days immediately prior to the date that the Site Visit is scheduled to take place (a "Late Site Visit Change") will cause TCS to incur expenses and losses (including without limitation TCS's costs in rescheduling the Site Visit and/or loss of opportunity for other business during the period during which such Site Visit was to take place). Accordingly, Customer agrees that for each Late Site Visit Change, Customer may incur, in TCS's sole discretion, and be liable for (at the time of cancellation or change), as liquidated damages, an amount equal to eight (8) hours of TCS's T&M, as well as any Service Expenses that have already been expended by TCS. The Parties acknowledge and agree that this amount is a fair, reasonable, and appropriate pre-estimate of the losses that TCS will incur as a result of any single Late Site Visit Change.

**4. Changes to SOWs.**

- a. Changes to any SOW shall be made only in a mutually executed written change order between TCS and Customer (a "Change Order"), outlining the requested change and the effect of such change on the Professional Services, including without limitation the fees and the timeline as determined by TCS in its reasonable discretion. TCS shall have no obligation to commence work in connection with any Change Order until the Change Order is agreed upon by both Parties in writing. TCS has no obligation to provide any Professional Services outside the scope of an SOW.
- b. Change Orders. Any changes, modifications or variants to the initial design and/or discovery materials or initial requirements of the SOW will result in additional fees which will be reflected in a Change Order. The following non-exhaustive list of items are subject to a Change Order and additional charges may apply:
  1. Any items not listed under Customer Project Responsibilities in the SOW.
  2. New requirements not included in the current scope.
  3. Any modifications (including removal or additions) to the current SOW.
  4. Any removal, additions, modifications, or changes to the current scope as determined in design work.
  5. Any delay arising due to defective or non-functional new or existing equipment or systems.
  6. Site readiness delays due to network, construction, and/or furniture.
  7. Any re-designation of rooms that affect deployment scope (based on environmental assessment).
  8. Any delays in the performance of consulting services or delivery of deliverables caused by Customer, including without limitation delays in completing and returning Customer documentation required during the Assessment and Design or completing the Needs Assessment, may result in an adjustment of Project timeline and additional fees.

**5. Billing and Invoicing.**

- a. The SOW will set forth the fees that the Customer will pay to TCS for each Project, and Customer agrees to compensate TCS such fees and expenses for the Professional Services as set forth in the applicable SOW ("Service Fees"). Customer acknowledges and agrees that all Service Fees shall be due and payable without any deduction, withholding, or offset of any kind, including without limitation for any Taxes.
- b. Invoicing and Payment of Professional Services Fees. Each Project as reflected in a SOW will be billed upon the formal notification via email from TCS to Customer of completion of the Customer's Project (or 3 months post-signature if the Project reflected in the SOW is not started due to Customer's delay or inability to allow TCS to begin providing the agreed Professional Services), and payment for each Project is due in full within thirty (30) days from the invoice date and is non-refundable except as explicitly provided in these PS Terms.
- c. Service Expenses. In addition to the fees and expenses set forth in the applicable SOW, Customer agrees to reimburse TCS for its fixed travel, meal, and lodging expenses incurred in connection with any Site Visit ("Service Expenses"). Travel, meal, and lodging expenses shall be invoiced upon completion of each Project, alongside all other amounts due under these PS Terms or the applicable SOW, on a per-trip/per resource basis. TCS shall, after Customer request, provide information verifying the deployment of on-site resources and expenditure of Service Expenses.
- d. Any unused designs, if applicable, from the design package will not be discounted or refunded.
- e. Professional Services purchased under a SOW may only be allocated for the work as specified in the SOW and these PS Terms and may not be transferred for any other TCS product, service, labor type, or licenses.
- f. Taxes.
  - i. Withholding Taxes and Fees. To the extent that any amounts payable by Customer are subject to withholding taxes and fees, the amount payable shall be grossed up by Customer when remitting payment such that the amount paid net of withholding taxes and fees equals the amount invoiced by TCS. Service Fees set forth in a SOW are exclusive of taxes and all customs, duties, levies, or other governmental impositions, including but not limited to sales, use, communication, excise, franchise, value-added, goods and services, and consumption taxes ("Taxes"). TCS will invoice Customer for any applicable Taxes and Customer is responsible for paying such Taxes.
  - ii. Tax Exemptions. In the event Customer is exempt from any Taxes, Customer will, at the time the applicable SOW is executed, provide TCS with all appropriate resale certificates, VAT registration numbers, and/or other documentation satisfactory to the applicable taxing authorities to substantiate such exemption status.

## 6. Term and Termination.

- a. Term. These PS Terms shall remain in effect for as long as the Service Agreement is in effect, unless terminated in accordance with this Section.
- b. Termination. A party may terminate these PS Terms by: (a) providing written notice of termination without cause to the other party, provided that all outstanding SOWs have expired or been terminated, or (b) providing written notice of termination for cause if the other party has materially breached these PS Terms or a SOW and has not cured such breach within thirty (30) days of written notice of such breach. Any termination of these PS Terms will automatically lead to the termination of any active SOW in place. Unless otherwise specified in the termination notice or as otherwise set forth herein, the termination of one SOW shall not necessarily result in the termination of, or otherwise affect, any other SOW or Project.
- c. Effect of Termination. In the event that these PS Terms or a SOW is terminated, Customer shall be obligated to pay TCS for:
  - i. the full amount of Services Fees set forth in the terminated SOW(s), as indicated per the Service Agreement; and
  - ii. all applicable Service Expenses and T&M incurred up to the date of termination.
  - iii. In the event Customer terminates these PS Terms or a SOW due to TCS's uncured material breach in accordance with these PS Terms, Customer shall be liable for Services Fees, Service Expenses, and T&M incurred or rendered up until the effective date of the termination.
- d. Post-Termination Notice Wrap-Up. Upon receiving or providing notice of termination of these PS Terms, TCS shall be relieved of and excused from any obligation to continue to perform Professional Services or to perform under any active SOWs.

## 7. Warranty and Limitation of Liability.

- a. With respect to the Professional Services, TCS warrants that: (i) it and each of its employees, consultants and subcontractors, if any, that it uses to provide and perform Professional Services has the necessary knowledge, skills,

experience, qualifications, and resources to provide and perform the Professional Services in accordance with these PS Terms and the SOW; and (ii) the Professional Services will be performed for and delivered to Customer in a reasonable, diligent, workmanlike manner in accordance with industry standards (together, the "PS Warranty").

- b. Exclusive Sole Remedy for Breach of the PS Warranty. If through no fault or delay of Customer, or breach by Customer of these PS Terms or the SOW, the Professional Services do not conform to the foregoing PS Warranty, and Customer notifies TCS within thirty (30) days of TCS's delivery of the Professional Services, then Customer may require TCS to re-perform the non-conforming portions of the Professional Services. The foregoing remedy is Customer's sole and exclusive remedy for a breach of this PS Warranty.
- c. No other warranties. Customer understands and agrees that except for the limited PS Warranty provided in Section 7(a), the Professional Services are otherwise provided "as is" and TCS, its affiliates, suppliers and resellers expressly

disclaim all warranties of any kind, express or implied, including without limitation any warranty of merchantability, fitness for a particular purpose, or non-infringement. TCS, its affiliates, suppliers and resellers make no warranty or representation regarding the results that may be obtained from the use of the Professional Services, regarding the accuracy or reliability of any information obtained through the Professional Services or that the Professional Services will meet any user's requirements, or be uninterrupted, timely, secure or error free. Use of the Professional Services, including without limitation any material and/or data downloaded or otherwise obtain through use of the Professional Services, is at Customer's sole risk. TCS cannot guarantee and does not promise any specific results from the provision of the Professional Services.

- d. Limitation of Liability.
  - i. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE PS TERMS OR THE SERVICE AGREEMENT, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE) WILL TCS, ITS AFFILIATES, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS, LICENSORS, RESELLERS, OR SUPPLIERS BE LIABLE TO CUSTOMER, ITS USERS, OR ANY OTHER THIRD PARTIES FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA, BUSINESS INTERRUPTION, OR ANY OTHER LOSS INCURRED BY CUSTOMER, ITS USERS, OR ANY OTHER THIRD PARTY IN CONNECTION WITH THESE PS TERMS, THE SOW, OR THE PROFESSIONAL SERVICES, REGARDLESS OF WHETHER TCS HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.
  - ii. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE PS TERMS OR THE SERVICE AGREEMENT, TCS'S AND ITS AFFILIATE'S, SUPPLIER'S AND RESELLER'S AGGREGATE LIABILITY TO CUSTOMER, ITS USERS, OR ANY OTHER THIRD PARTY ARISING OUT OR RELATING TO THESE PS TERMS OR THE PROFESSIONAL SERVICES SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES CUSTOMER HAS PAID TO TCS FOR THE PROFESSIONAL SERVICES IN THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM, AS REFLECTED IN THE SOW. ANY CLAIM ARISING OUT OF OR RELATING TO THESE PS TERMS OR THE PROFESSIONAL SERVICES MUST BE BROUGHT WITHIN EIGHTEEN (18) MONTHS OF THE EVENTS GIVING RISE TO THE CLAIM.

**8. Confidentiality and Non-Disclosure.** This Section applies only to the extent the same subject matter is not addressed in the Service Agreement. The Receiving Party shall at all times keep in trust and confidence all Confidential Information of the Disclosing Party, and shall not use such Confidential Information other than as expressly authorized by the Disclosing Party, nor shall the Receiving Party disclose any such Confidential Information to third parties without the Disclosing Party's prior written consent. The Receiving Party agrees that it will protect Confidential Information from unauthorized use, access, or disclosure in the same manner that the Receiving Party would use to protect its own confidential and proprietary information of a similar nature, but in no event less than a reasonable degree of care. Notwithstanding the foregoing limitation, TCS is authorized to disclose (a) Customer's Confidential Information to its subcontractors, contractors or employees who have a legitimate business need to have access to such Confidential Information in order to provide the Professional Services; or (b) to the extent not otherwise prohibited by the Service Agreement, Customer's name and status a TCS Customer. The Receiving Party shall immediately return to the Disclosing Party all Confidential Information (including copies thereof) in the Receiving Party's possession, custody, or control upon termination or expiration of these PS Terms. The Receiving Party will be authorized to disclose Confidential Information pursuant to a valid order issued by a court, government agency or relevant regulatory authority, provided that the Receiving Party provides where practicable: (i) prior written notice to the Disclosing Party of such obligation and (ii) the opportunity to oppose such disclosure. In the event Customer must disclose Confidential Information after complying with this Section, Customer shall disclose such information only to the extent legally required. Neither Party may disclose, advertise, or publish the terms and conditions of a SOW or these PS Terms.

**9. Intellectual Property.**

- a. TCS Intellectual Property Rights. TCS owns and will continue to own all Intellectual Property Rights in and to the Services, Professional Services, products, features, deliverables, data tools, reports, scripts, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes, materials, documentation, instructions, or other technology provided or developed by TCS (or a third party acting on TCS's behalf) under these PS Terms or a SOW (the "Deliverables"), including modifications, enhancements, improvements or derivative works of any of the foregoing, regardless of who first conceives or reduces to practice such Deliverables. Nothing in these PS Terms or a SOW transfers or assigns TCS's Intellectual Property Rights associated with the Deliverables or the Professional Services provided by TCS and/or licenses provided with respect to any other TCS Services. All rights not expressly granted herein are reserved and retained by TCS and its licensors.
- b. Limited License. To the extent any Deliverable is provided by TCS to Customer in the course of provision of Professional Services under any SOW, TCS hereby grants Customer, for the sole purpose of Customer's internal use of such Deliverable, a limited, royalty-free, non-exclusive, non-transferable, revocable, and non-sublicensable license to use such Deliverable to the extent reasonably required for Customer to avail itself of the benefits of the Professional Services provided by TCS under this PS Terms, only for the duration of these PS Terms and subject to the Customer being current on its payment obligations.
- c. Feedback. This Section applies only to the extent the same subject matter is not addressed in the Service Agreement. By submitting ideas, improvements, suggestions, documents, and/or proposals, whether in writing, oral, or electronic, regarding TCS's services, products, deliverables, or features ("Feedback") to TCS, Customer acknowledges and agrees that: (a) Customer's Feedback does not contain confidential or proprietary information; (b) TCS is under no obligation of confidentiality, express or implied, with respect to the Feedback; (c) TCS may already be developing a solution related to the Feedback; and (d) Customer grants TCS a non-exclusive, worldwide, royalty-free, irrevocable, sub-licensable, perpetual license to use, commercialize, create derivative works of, incorporate into its products and services, and publish the Feedback for any purpose, without compensation to Customer. Customer acknowledges that it has no rights in or to anything of TCS's (Intellectual Property or otherwise) as a result of TCS's use of any such Feedback.

## 10. Miscellaneous.

- a. Non-Solicitation. Customer shall not hire or solicit the employment of any TCS Personnel during the term of these PS Terms or any SOW and for a period of one (1) year from the date that TCS Personnel last provided Professional Services to Customer.
- b. Relationship of the Parties. TCS and Customer are independent contractors and these PS Terms will not establish any relationship of partnership, joint venture, employment, franchise or agency between TCS and Customer.
- c. Assignment. This Section applies only to the extent the same subject matter is not addressed in the Service Agreement. Neither Party may assign these PS Terms, a SOW, or any portion thereof without the other Party's prior written consent; provided however that TCS may assign these PS Terms, a SOW, or any portion thereof, and all of TCS's rights and obligations thereunder without consent (a) to an Affiliate; (b) to TCS's successor or surviving entity in connection with a merger, acquisition, consolidation, sale of all or substantially all of its assets used in connection with the provision of Professional Services under these PS Terms; or (c) as part of the transfer or disposition of more than fifty percent (50%) of TCS's voting control or assets.
- d. Force Majeure. This Section applies only to the extent the same subject matter is not addressed in the Service Agreement. Except for the obligation to pay monies due and owing, neither Party will be liable for any delay or failure in performance due to events outside the defaulting Party's reasonable control, including without limitation: natural disasters, pandemics, contagions, viruses, shelter-in-place orders (whether lawful or not), earthquakes, fires, floods, labor disputes, extreme weather events, industry wide shortages of supplies, actions of governmental entities, riots, war, terrorism, epidemics, or delays of common carriers, or other circumstances beyond its reasonable control. The obligations and rights of the defaulting Party will be extended for a period equal to the period during which such Force Majeure event prevented such Party's performance.