

BackGround Software Inc. - Professional Services
Non-managed Services
Terms & Conditions

Exhibit C - Terms & Conditions (T&C)

CUSTOMER HEREBY ACCEPTS THIS AGREEMENT AND THE SERVICES DESCRIBED ON PAGE 1 OF THE EXHIBIT B - CONSULTING SERVICES AGREEMENT FORM. PERFORMANCE IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. CUSTOMER SIGNATURE ON PAGE 1 OF THE EXHIBIT B - CONSULTING SERVICES AGREEMENT ACKNOWLEDGES THAT THIS AGREEMENT CONSTITUTES THE ENTIRE AGREEMENT BETWEEN BACKGROUND AND THE CUSTOMER FOR SUCH PERFORMANCE. CUSTOMER MUST REFERENCE OR PROVIDE A COPY OF THIS FORM ALONG WITH PURCHASE ORDER. ANY REFERENCE TO TERMS OTHER THAN THOSE CONTAINED HEREIN THAT ARE CONTAINED OR REFERENCED IN CUSTOMER'S PURCHASE ORDER OR ORDER DOCUMENT SHALL NOT BE APPLICABLE TO WORK PERFORMED HEREUNDER.

1. Charges

The charges for services rendered are stated on page 1 of the Exhibit B - Consulting Services Agreement form. Unless otherwise stated on the page 1 of the Exhibit B - Consulting Services Agreement, Customer shall be responsible for actual and reasonable costs incurred by BACKGROUND for travel and living expenses. Invoices shall be rendered upon completion of services or monthly in the event the duration of services exceeds one month. Invoices shall be payable upon receipt.

2. Proprietary Information

If either party desires that information provided under this Agreement be held in confidence, each party agrees to identify such information as "Confidential" or "Proprietary" ("Confidential Information"). Unless otherwise required by law, the receiving party shall not disclose confidential information and shall use it only for purposes specifically contemplated by this Agreement. This Agreement will not affect any confidential disclosure agreement between the parties.

3. Rights in Data

3.1 The parties to this Agreement mutually agree that Customer shall own and maintain all intellectual property rights to any and all pre-existing Customer intellectual property and any enhancements, modifications and/or derivatives thereto. BACKGROUND shall own and maintain all BACKGROUND intellectual property rights to any and all pre-existing intellectual property and any enhancements, modifications and/or derivatives thereto.

3.2 The parties agree that all right, title and interest in and to all inventions and discoveries developed hereunder, including all rights in copyrights or other intellectual property rights pertaining thereto, shall be jointly owned by both Customer and BACKGROUND. Both Customer and BACKGROUND shall be free to fully exploit, without obligation to account to the other party, any and all rights, title and interest in such intellectual property, including any copyright, trade secret, or other proprietary rights, under the laws of Canada or any other jurisdiction.

3.3 BACKGROUND grants to Customer a royalty-free, non-exclusive, non-transferable, worldwide license in perpetuity, to use, modify, and reproduce (provided BACKGROUND's intellectual property rights are protected as stated herein), for Customer's internal use only, any custom software, consulting design specification, or any other tangible Deliverable which embodies any of BACKGROUND's pre-existing intellectual property.

BackGround Software Inc. - Professional Services
Non-managed Services
Terms & Conditions

4. Warranty

4.1 BACKGROUND shall perform all Services in a good, workmanlike manner in accordance with the standards of the computer industry.

4.2 EXCEPT AS SPECIFIED IN THIS AGREEMENT, ALL EXPRESS OR IMPLIED REPRESENTATIONS AND WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, ARE HEREBY DISCLAIMED.

5. Limitation of Liability

5.1 Each party's liability to the other for claims relating to this Agreement, whether for breach or in tort, shall be limited to the price charged to Customer for Products and/or Services related to the claim(s).

5.2 IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT (INCLUDING WITHOUT LIMITATION LOSS OF REVENUES, PROFITS, USE, DATA, OR OTHER ECONOMIC ADVANTAGE), HOWEVER IT ARISES, WHETHER FOR BREACH OF THIS AGREEMENT INCLUDING BREACH OF WARRANTY, OR IN TORT, EVEN IF THAT PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. FURTHER, LIABILITY FOR SUCH DAMAGE SHALL BE EXCLUDED, EVEN IN THE EVENT OF A FUNDAMENTAL BREACH OF THE AGREEMENT.

6. Hiring of Personnel

6.1 Additional Value From Hiring. Customer acknowledges that BACKGROUND provides a valuable service by identifying and assigning personnel for Customer's work. Customer further acknowledges that Customer would receive substantial additional value, and BACKGROUND would be deprived of the benefits of its work force, if Customer were to directly hire personnel after they have been introduced to Customer by BACKGROUND.

6.2 Hiring without Prior Consent. Without the prior written consent of BACKGROUND, Customer shall not recruit or hire any personnel who are or have been assigned to perform work by BACKGROUND until one (1) year after termination of this Agreement.

6.3 Hiring Fee. In the event that Customer hires any personnel who are or have been assigned to perform work for Customer under this Agreement, Customer shall pay BACKGROUND, within thirty (30) days of the date of such hiring, an amount equal to fifty percent (50%) of the total first year compensation Customer pays such personnel as a fee for the additional benefits obtained by Customer.

7. General

7.1 Any action related to this Agreement will be governed by the laws of the Province of Ontario, excluding choice of law rules.

7.2 This Agreement constitutes the entire agreement of the parties hereto and supersedes all prior and/or contemporaneous representations, proposals, discussions, and communications, whether oral or in writing. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by the party sought to be bound.