

# Terms and Conditions

## 1. Provider's Business Hours:

### a) Regular Business Hours

Regular Business Hours shall consist of any time Provider works for Client during regular business hours. Regular business hours are defined as 7:30 AM to 5:30 PM Monday through Friday excluding public holidays.

### b) Extended Business Hours

Extended Business Hours shall consist of any hours worked by Provider outside of the period defined as "Regular" Business Hours. This includes weekends, the period 5:30 PM to 7:30 AM during weekdays, and all holidays.

2. Scheduling of Work. Provider will perform no work without the request or consent of Client unless it is authorized to do so under a separate service agreement. On-site work will be scheduled, as agreed, typically within the next one or two business day after it is requested or consented to.

## 3. Standard Response Times:

a) 1-business hour response for remote support services for emergency service. Emergency service is characterized as involving a mission-critical function.

b) 4-business hour response for emergency on-site support services.

c) One to two business days for non-critical on-site support services

4. Escalation Policy. Unless it is immediately clear that a service call requires on-site service, Provider will treat each service call as a remote service call. Should Provider be unable to resolve the issue remotely within a reasonable period of time, a technician will be dispatched according to the response times described in #3 the Terms and Conditions.

5. Labor Quotes and Estimates. Quotes, proposals and estimates are based upon our current knowledge of work plans and specifications provided by the clients, and are estimates only. Provider's service and consulting fees are based on actual service provided, not on estimates or quotes. Provider determines such fees by actual time spent, multiplied by the technician's or consultant's hourly rate, and bill for our services at the end of the work.

Provider will in most cases provide a fixed price quote if requested by Client. In such cases Client will be invoiced only the amount set forth in the Quote/Estimate, unless the scope of work requested by the Client has changed. If the Client changes the scope of work, then the Provider will notify the Client in writing that additional charges will be made.

#### 6. Charges and Payment Terms:

a) There is a one & one-half hour minimum charge for all onsite visits for services not covered by a separate services agreement. There is a fifteen (15) minimum charge for remote support services not covered by a separate services agreement.

b.) Technician's billable time begins when WesTec arrives on client's premises for on-site work. All per hour work is rounded to the nearest quarter hour. If technician is unable to gain entry to the client's premises at the prearranged start time, then technician will wait for 30-minutes before moving to another appointment. In such circumstances, client is subject to a minimum 1-hour charge of \$165.00, and the work will be rescheduled and billed accordingly.

c.) All orders for parts or equipment require a minimum eighty percent (80%) deposit due at the time of order. The balance for such orders is due when the equipment delivery to client's location. All orders for software require a one-hundred percent (100%) deposit.

d.) All invoices to Client shall be due within ten (10) days. All accounts that are thirty (30) days past due will be placed on hold until the full amount due on the account are paid.

e.) Any unpaid sums over thirty (30) days old that are not in dispute shall bear interest at the rate of one-half of one percent (1/2%) per month. Costs of collection including reasonable attorney's fees shall be borne by the Client.

f.) Payment for all Guardian Service and Maintenance Agreements is due on the first day of each month. Provider is not obligated to provide any further services under the Agreement, if payment is not received by the 10th day of the month.

g.) Invoices which offer term discounts must be paid in accordance with terms for discount to be taken by Client.

7. Alterations to Services or Equipment. If Client alters in any way any Services performed by or Equipment provided by Provider without the express written consent of Provider,

Client does so at its own risk and expense. Provider shall not be liable or responsible for problems created as a result of Client's alteration of Services, Equipment and/or Client's network or system.

8. Confidential Information. Each Party hereto ("Such Party") shall hold in trust for the other Party ("Such Other Party"), and shall not disclose to any non-party to the Agreement, any confidential information of Such Other Party. Confidential information is information which relates to Such Other Party's research, development, trade secrets, or business affairs, but does not include information which is generally known or easily ascertainable by nonparties of ordinary skill in computer design, programming, networking, information technology, or the specific business interests of either Party.

9. Staff. Provider is an independent Contractor and Provider is not employed by Client. Provider is hereby contracting with Client for the services described in this Agreement and Provider reserves the right to determine the method, manner, and means by which the services will be performed. Provider is not required to perform the services during a fixed hourly or daily time unless agreed to in one of Provider's service plans. Provider shall not be required to devote his full time to the performance of the services required hereunder, and it is acknowledged that Provider has other clients and offers services to the general public. The order or sequence in which the work is to be performed shall be under the control of the Provider. Client shall not provide any insurance coverage of any kind for the Provider, and Client will not withhold any amount that would normally be withheld from an employee's pay.

10. Non-Solicitation of Employees. During the term of this agreement and for a period of twelve (12) months thereafter, Client agrees not to solicit, recruit, or employ any employee of Provider without the prior written consent of the President or Chief Executive Officer of Provider. Provider hereby agrees that it will not solicit, hire, or retain, in any capacity whatsoever any of Client's employees without written consent from Client.

11. Warranties. See WesTec Services Warranty at [www.westecservices.net/warranty/](http://www.westecservices.net/warranty/)

12. Complete Agreement. This Agreement contains the entire Agreement between the parties hereto with respect to the matters covered herein. No other Agreements, representations, warranties, or other matters, oral or written, purportedly agreed to or represented by or on behalf of Provider by any of its employees or agents, or contained in any sales material or brochures, shall be deemed to bind the parties hereto with respect to the subject matter hereof. Client acknowledges that it is entering into this Agreement solely on the basis of the representation contained herein.

13. Assignment. Neither party shall assign its rights or obligations under this Agreement without the prior written consent of the other party, which shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, either party may assign this Agreement to an entity who acquires substantially all of the stock or assets of such party; provided that consent will be required in the event that the non-assigning party reasonably determines that the assignee will not have sufficient capital or assets to perform its obligations hereunder. All terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective permitted transferees, successors and assigns.

14. Service of Notice. Service of all notices under this Agreement shall be sufficient if made by registered mail to the specific party involved herein at its respective address noted in the preamble to this Agreement.

15. Force Majeure. Provider shall not be responsible for failure to perform under this Agreement when its failure results from any of the following causes: Acts of God or public enemies, civil war, insurrection or riot, fire, flood, explosion, earthquake or serious accident, strike, labor trouble or work interruption, loss of a IP address or other disruption to Internet connection, or any cause beyond its reasonable control.

16. Agreement Headings and Numbering. Paragraph headings and numbers used in this Agreement are included for convenience of reference only, and, if there is any conflict between any such numbers and headings, and the text of the Agreement, the text shall control.

17. Severability. In the event any one or more of the provisions of this Agreement or of any exhibit is held to be invalid or otherwise unenforceable, the enforceability of the remaining provisions shall be unimpaired.

18. Conflict. In the event of a conflict in the provisions of any attachments hereto and the provisions set forth in this Agreement, the provisions of such attachments shall govern.

19. Jurisdiction. The enforcement of this agreement shall be governed by the laws of the State of Texas. Any action brought under this Agreement must be filed in Harris County, Texas.

20. Enforcement of Provisions. If the scope of any of the provisions of the Agreement is too broad in any respect whatsoever to permit enforcement to its full extent, then such provisions shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of this Agreement shall not thereby fail, but that the scope of such provisions shall be curtailed only to the extent necessary to conform to law.

21. Attorney Fees: The Parties agree that neither party shall be entitled to the recovery of any attorney fees brought by either Party regardless of the outcome of any litigation between the Parties, whether such fees are recoverable by statute. Each Party shall bear all of their own costs associated with any litigation involving, arising from or related to any services or equipment provided by Provider except if the subject of the case is the collection of past due amounts by Provider from Client in which case Provider will be able to collect such fees as allowed by the law.

22. Authorization. Client acknowledges that the person signing this Agreement on its behalf is authorized to do so and may bind Client to all the terms and conditions contained herein, and represents and warrants that such person is acting within the scope of his or her authority as an officer, director or duly authorized agent or employee of Client.

23. Changes and Alterations. These terms and conditions can be changed by Provider from time to time without notice to Client.