

Terms and Conditions

Other Services

During the term of this Contract, Client shall not retain the services of any third party to provide services similar to those provided by Contractor hereunder. This Section shall not be construed as preventing Client from selling its products without utilizing Contractor's On-Demand Delivery System™. If the client decides at the end of the first 30 day period of use to terminate use of the On-Demand Delivery System™, they must submit in writing, or via email, notice of cancellation within one week of the end of the 30 day trial. Contractor is not responsible for any third party agreements if Client cancels service.

Time for Performance

Contractor will have the system ready for use within 2 weeks of the signing of this contract. The system uptime is guaranteed at 99.7%. If the system availability falls below 99.7%, client shall receive a refund for that portion of the monthly maintenance fee.

Confidential Information

Each party agrees that it will not disclose any Confidential Information it receives during the term of this Contract, and for two (2) years after the termination or cancellation of this Contract, to any third party. Each party will use Confidential Information only in pursuit of its duties under this Contract for the term of this Contract. Each party shall take all reasonable precautions to prevent any unauthorized disclosure of Confidential Information by its employees. Each party shall return all Confidential Information, including any and all copies of such Confidential Information, upon the termination or cancellation of this Contract, or upon any written request from the other party.

"Confidential Information" includes any and all technical data (including, but not limited to, Contractor's copyrighted On-Demand Delivery System™), trade secrets, customer information, or other information disclosed and under this Contract and treated as confidential. Confidential Information shall not include information which is known to the receiving party at the time of disclosure, publicly known information, or information approved for release upon a prior written consent of the disclosing party.

End User

The Client agrees to allow Contractor to release their customer's status data to the end user (client's customer). Contractor is not responsible for any claim due to the release of any information or the failure of release of information. Contractor is not responsible for any phone charges that the end user may incur.

Copyrights and other Intellectual Property

Client agrees not to use, duplicate, or attempt to duplicate Contractor's copyrighted On-Demand Delivery System™ or intellectual property related thereto in any manner other than as provided by Contractor under this Contract. Client acknowledges that the use of Contractor's On-Demand Delivery System™ does not convey ownership thereof, and the On-Demand Delivery System™ and other intellectual property related thereto shall remain the sole and exclusive property of Contractor.

Late Fees

Late payments by Client shall be subject to late penalty fees of one percent (1%) per month from the due date until the amount is paid.

Disclaimer of Warranty

CONTRACTOR MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, ACCURACY OF INFORMATION OR CONTENT, FITNESS FOR A PARTICULAR PURPOSE, OR SYSTEM INTEGRATION.

Limited Liability

This provision allocates the risks under this Contract between Contractor and Client. Contractor's pricing reflects the allocation of risk and limitation of liability specified below.

IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR LOST PROFITS ARISING OUT OF OR RELATED TO THIS CONTRACT OR THE PERFORMANCE OR BREACH THEREOF, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF. CONTRACTOR'S TOTAL LIABILITY TO CLIENT UNDER THIS CONTRACT FOR DAMAGES,

COSTS AND EXPENSES SHALL NOT EXCEED THE COMPENSATION RECEIVED BY CONTRACTOR UNDER THIS CONTRACT. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY DAMAGES RESULTING FROM OR RELATED TO ANY FAILURE, LOSS OF DATA, OR DELAY IN THE PERFORMANCE OF SERVICES UNDER THIS CONTRACT, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF.

Equipment and Supplies

Contractor, at Contractor's expense, will provide access to the On-Demand Delivery System™. Any necessary equipment to allow access to the system shall be the responsibility of the client. All data gathered by Turnkey Programming, LLC shall be held indefinitely by Turnkey Programming, LLC and shall only be dispersed to third parties as aggregated non personal information. Turnkey Programming reserves the right to use this data in systems and services offered by Turnkey Programming, LLC. Use of the On-Demand Delivery System™ is reserved to authorized users only. Any unauthorized use of the On-Demand Delivery System™ is strictly prohibited and would constitute a material breach of this contract.

Expenses

Contractor will be responsible for all expenses required for the performance of the contractual services.

Terminating the Contract

This Contract will become effective when signed by both parties and will terminate on the earlier of the date Contractor completes the services required by this Contract or the date a party terminates the Contract as provided below.

Client may terminate this Contract for any reason, with or without cause, during the thirty (30) day period beginning on the date Client signs this Contract. In essence, this thirty (30) day period is a "free look" period for Client. If Client terminates the Contract during such thirty (30) day period, it shall receive a refund of all monies paid to Contractor hereunder.

Contractor may terminate this Contract upon Client's failure to pay Contractor's fees as provided in this Contract, where Contractor has demanded payment, in writing, and has not received payment within twenty (20) days after the date that such demand was sent to Client. Either party may terminate this Contract upon written notice to the other party if such other party is in default of or has breached any provision of this Contract and such default or breach has not been cured within thirty (30) days of written notice thereof.

Regardless of the reason for termination, Contractor shall be entitled to full payment for services performed prior to the date this Contract is terminated. If this Contract is terminated because of Client's uncured default, including failure to pay Contractor's fees as provided in this Contract, then in addition to the full payment for services performed prior to the date of termination, Contractor shall be entitled to payment of fifty percent (50%) of the remaining sums that would otherwise have been due had this Contract had not terminated, it being understood and agreed by the parties that such sum is a reasonable estimate of the profits Contractor would have earned for the remainder of the term of the Contract had it not been breached by Client. The foregoing rights and remedies shall be cumulative and in addition to all other rights and remedies available in law and in equity. If either party engages an attorney to enforce the provisions of this Contract after default by the other party, then the defaulting party shall pay the reasonable attorney's fees of the non-defaulting party.

Independent Contractor Status

The parties intend Contractor to be an independent contractor in the performance of the services. Contractor and Client agree to the following rights consistent with an independent contractor relationship.

- Contractor will have the right to control and determine the methods and means of performing the contractual services.
- Contractor has the right to perform services for others during the term of this Contract.
- Contractor has the right to hire assistants as subcontractors, or to use employees to provide the services required by this Contract.
- Client shall not require Contractor or Contractor's employees or subcontractors to devote full time to performing the services required by this Contract.
- Neither Contractor nor Contractor's employees or subcontractors are eligible to participate in any employee pension, health, vacation pay, sick pay or other fringe benefit plan of Client.

State and Federal Taxes

Client will not:

- (a) withhold Social Security and Medicare taxes from Contractor's payments or make such tax payments on Contractor's behalf, or
- (b) withhold state or federal income tax from Contractor's payments or make state or federal unemployment contributions on Contractor's behalf.

Contractor will pay all applicable taxes related to the performance of services under this contract. This includes income, Social Security, Medicare and self-employment taxes. Contractor will also pay any unemployment contributions related to the performance of services under this contract. If Contractor is required to pay any federal, state or local sales, use, property or value added taxes based on the services provided under this Contract, the taxes shall be separately billed to, and paid by, Client. Client shall be responsible for paying any interest or penalties incurred due to late payment or nonpayment of any taxes owed or payable by Client.

Disputes

If a dispute arises, the parties will try in good faith to settle it through mediation conducted by a mediator to be mutually selected.

The parties will share the costs of the mediator equally. Each party will cooperate fully and fairly with the mediator and will attempt to reach a mutually satisfactory compromise to the dispute. If the dispute is not resolved within 30 days after it is referred to the mediator, either party may take the matter to court.

No Partnership

This Contract does not create a partnership relationship. Neither party has authority to enter into contracts on the other's behalf.

Entire Agreement

This is the entire agreement between the parties. It replaces and supersedes any and all oral agreement between the parties, as well as any prior writings.

Successors and Assignees

This Contract binds and benefits the heirs, successors and assignees of the parties.

Notices

All notices must be in writing. A notice may be delivered to a party at the address that follows a party's

signature or to a new address that a party designates in writing. A notice may be delivered:

- in person
- by certified mail, or
- by overnight courier.

Governing Law

This Contract will be governed by and construed in accordance with the laws of the state of North Carolina.

Counterparts

This Contract may be signed by the parties in different counterparts and the signature pages combined will create a document binding on all parties.

Modification

This Contract may only be modified in writing and signed by all the parties. Any modification that is deemed by the contractor as a material change to the system, requested by the client, shall be grounds for a modified price based on those changes. A signed change request form with a new price is required for the continuation of the services provided.

Waiver

If one party waives any term or provision of this Contract at any time, that waiver will be effective only for the specific instance and specific purpose for which the waiver was given. If either party fails to exercise or delays exercising any of its rights or remedies under this Contract, that party retains the right to enforce that term or provision at a later time.

Severability

If any court determines that any provision of this Contract is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this Contract invalid or unenforceable and such provision shall be modified, amended or limited only to the extent necessary to render it valid and enforceable.

Force Majeure

Except for the payment of money hereunder, neither party will be liable to the other, or will be considered to be in breach of this Contract, on account of any delay or failure to perform as a result of any acts of God, acts of any political entity, or natural disasters, or any other causes or conditions that are beyond such party's reasonable control. Should any such event occur, the affected party will give prompt written notice to the other party and will use commercially reasonable efforts to minimize the impact of the event.