



TIME & MATERIALS SERVICES TERMS U.S. Version

These Time & Materials Services Terms are incorporated by reference into the CSS Terms and apply to any Special Terms for time and materials services.

1. **DEFINITIONS.** The definitions in the CSS Terms shall apply in addition to the following definitions:

"Price List" means Company's pricelists for parts and components and standard hourly or daily rates and reimbursement rules for Services, available on Company's on request.

"Personnel" means employees, independent contractors, and subcontractors that Company deploys for the performance of the Time & Materials Services.

"T&M Services" means services performed against a rate and reimbursement of materials and expenses based on Company's Price List.

2. T&M SERVICES.

2.1 Scope of T&M Services. Company shall perform the T&M Services set forth in the applicable Special Terms or Statement of Work.

2.2 Contacts and Assigned Personnel. Each party shall appoint at least 1 primary and 1 substitute contact person for all communications with the other party. Company (i) may select, remove and replace Personnel from time to time in its sole discretion; and (ii) shall be responsible for the management and administrative of its Personnel.

2.3 Performance Records. Personnel may keep records of the T&M Services performed for Customer including records with respect to the dates and duration of performances and the type of services performed ("Performance Records").

3. **SURCHARGES.** If, at Customer's request, Company performs T&M Services on weekends or outside Company's regular business hours of 8:00 a.m. to 5:00 p.m. (local time where T&M Services are performed), Company may apply surcharges of fifty percent (50%) or as specified in the applicable Price List, whichever is higher.

4. LIMITED WARRANTY AND DISCLAIMER.

4.1 Limited Warranty. Company shall perform T&M Services in a professional and workmanlike manner. Any parts that Company may install in connection with T&M Services shall substantially conform to the specifications in the applicable Documentation for the Warranty Period.

4.2 Exclusive Remedy. If a part materially fails to conform to the limited warranty during the Warranty Period, Company shall repair or replace the non-conforming part or provide a credit to Customer for the amount paid for the non-conforming part. If Company fails to perform the T&M Services in accordance with the limited warranty, Company will re-perform the non-conforming T&M Service. THE REMEDIES EXPRESSLY PROVIDED IN THIS SECTION ARE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND SHALL BE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES CUSTOMER MAY HAVE AGAINST COMPA-

NY WITH RESPECT TO ANY NON-CONFORMANCE OF T&M SERVICES OR PARTS.

4.3 Warranty Period. With respect to parts, the "Warranty Period" shall be 90 days for non-consumable parts and 7 days for consumable parts (i.e., parts that are consumed during operation or that have an expected life time of less than 1 year) from the date of installation.

4.4 Disclaimer. EXCEPT AS SPECIFIED ABOVE, COMPANY MAKES NO EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY T&M SERVICES OR PARTS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY DISCLAIMS ALL IMPLIED WARRANTIES AND REPRESENTATIONS INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

5. WORK PRODUCT.

5.1 License to Work Product. Company shall grant to Customer a non-exclusive, non-transferable, and non-sublicenseable license to use Work Product solely for Customer's internal business purposes.

5.2 Customer Data. Customer grants Company a non-exclusive right to use Customer Data to perform the Services and create Work Product.

5.3 All Other Rights Reserved. Company reserves all rights, title and interest in and to all Work Product. Customer reserves all rights, title and interest in and to Customer Data that Customer owns or acquires independently of the provision of T&M Services hereunder.

6. TERMINATION.

6.1 Right to Terminate. Either party may terminate any order for T&M Services with or without cause, at any time, by giving the other party 30 days prior written notice.

6.2 Consequences. Unless Customer terminates T&M Services because of Company's material breach or Company terminates the T&M Services without cause, Customer shall pay to Company an amount equal to the greater of the cancellation fees specified in the Special Terms, if any, or where no such fees are specified, the estimated total fees for T&M Services contemplated, including the costs for materials and the expenses actually incurred less the expenses saved by Company as a result of the early termination. Upon termination of these T&M Services Terms by Company for cause, Customer shall return to Company all Work Product, Company's Confidential Information and other tangibles and intangibles received in connection with T&M Services, without retaining any copies thereof, and all licenses granted to Customer under these T&M Services Terms for Work Product shall be automatically revoked.