

## **POLICY**

### **Angie Hospitality Terms and Conditions**

THE ANGIE PRODUCT AND SERVICE ORDER FORM ("ORDER FORM"), ALONG WITH ANY REFERENCED OR ATTACHED SCHEDULES AND POLICIES AND THESE TERMS AND CONDITIONS SHALL CONSTITUTE THE BINDING CONTRACT BETWEEN SERVICE PROVIDER AND CUSTOMER. THE TERMS OF THE AGREEMENT SHALL GOVERN CUSTOMER'S ACCESS AND USE OF THE SERVICES, SERVICE PROVIDER EQUIPMENT AND SOFTWARE, EXCEPT TO THE EXTENT: (A) THERE IS A SEPARATE SIGNED CONTRACT BETWEEN CUSTOMER AND SERVICE PROVIDER GOVERNING CUSTOMER'S USE OF THE SOFTWARE, OR (B) THE SOFTWARE INCLUDES A SEPARATE "CLICK-ACCEPT" LICENSE AGREEMENT OR THIRD PARTY LICENSE AGREEMENT AS PART OF THE INSTALLATION AND/OR DOWNLOAD PROCESS GOVERNING CUSTOMER'S USE OF THE SOFTWARE. TO THE EXTENT OF A CONFLICT BETWEEN THE PROVISIONS OF THE FOREGOING DOCUMENTS, THE ORDER OF PRECEDENCE SHALL BE (1) THE SIGNED CONTRACT, (2) THE CLICK-ACCEPT AGREEMENT OR THIRD PARTY LICENSE AGREEMENT, AND (3) THE AGREEMENT.

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions. In this Agreement:**

Agreement means these Terms and Conditions, the Order Form, any attached schedules to these Terms and Conditions and/or Order Form, and any separately signed contract between Customer and Service Provider governing Customer's use of Service Provider Equipment or Service, including but not limited to any click-accept license agreement and/or end user license agreement related to the delivery of such Service Provider Equipment or Service.

Billing Date means the date from which Service Provider first invoices Customer for the Services.

Confidential Information means all non-public information that comes into a party's knowledge or possession as a result of this Agreement, including but not limited to the terms or subject matter of this Agreement, training manuals, operations manuals, software and its functionality, technical information and financial arrangements.

Contract Term means the Initial Contract Term and all Renewal Terms (if applicable).

Documentation means the instructions, manuals, user guides, installation guides, technical guides, trouble-shooting guides, and other material intended for use by the Customer in accordance with these Terms and Conditions, which may be made available by the Service Provider to the Customer either physically or digitally (including online availability).

Effective Date means the date designated in the Order Form.

Fees means any fees payable by the Customer to the Service Provider for the Services as described in the Order Form or otherwise due to Service Provider under the terms of this Agreement.

Intellectual Property means any and all intellectual property rights throughout the world including rights in respect of or in connection with any confidential information, copyright (including future copyright and rights in the nature of or analogous to copyright), inventions (including patents), trade marks, service marks, designs and circuit layouts whether or not now existing and whether or not registered or registrable including any right to apply for the registration of such rights and all renewals and extensions.

Order Form means the Angie Product and Service Order Form.

Personnel of a party means the employees, officers, agents and subcontractors of that party.

Software means the proprietary or third party computer software provided by the Service Provider to the Customer whether in program or data file (whether on disk, in read-only memory, on any other media) and whether embedded in any hardware provided by the Service Provider or provided on a stand-alone basis and/or remotely provided, including all updates, upgrades, major releases, feature releases, and bug fix releases, for use by the Customer at the Property for the Contract Term.

Services means those services identified and contracted for by Customer in the Order Form.

Service Provider means Angie or any of its affiliates, agents and subcontractors.

Service Provider Equipment means any hardware and equipment identified in the Order Form as equipment that Service Provider will be delivering to the Customer (and installing if requested) as part of the delivery of the Services.

Service Start Date means the service start date identified in the Order Form.

Taxes means any applicable sales, value added or goods and services taxes, or any other similar taxes which are imposed by any federal, state or local government agency in the place in which the Property is located.

## **2. CONTRACT TERM**

2.1 This Agreement is effective from the Effective Date and continues for the Initial Contract Term specified in Order Form.

2.2 This Agreement shall automatically renew for further terms of twelve (12) months each (each a "Renewal Term") unless either Party notifies the other Party in writing of its intention to not renew this

Agreement at least thirty (30) days prior to the expiry of the Initial Contract Term or the then current Renewal Term.

### **3. SERVICES AND SUPPORT**

3.1 Service Provider shall use commercially reasonable efforts to commence provision of the Services by the Service Start Date. Customer shall provide such assistance and cooperation as is reasonably required to facilitate the Service Provider in meeting the Service Start Date.

3.2 Service Provider shall perform the Services selected in the Order Form.

### **4. SOFTWARE**

4.1 Subject to and conditioned on Customer's payment of Fees and compliance with all the terms and conditions of this Agreement, Service Provider hereby grants Customer a non-exclusive, non-transferable license to use the Software included in any hardware delivered to the Property during the Contract Term, solely for use by the Customer or its authorized users in accordance with the terms and conditions herein.

4.2 Customer agrees that it will not and must not permit others, including its Personnel to translate, decompile, reverse engineer, disassemble, decompose, modify or copy the Software, or otherwise access or use the Software in any manner inconsistent with the rights granted under this Agreement, or adapt the Software in any way, or use it to create a derivative work. Customer further agrees that it will not remove any proprietary notices from the Services or Documentation; or use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

4.3 With respect to any software-as-a-service features ("SaaS Features"), subject to and conditioned on Customer's payment of Fees and compliance with all the terms and conditions of this Agreement, Service Provider hereby grants Customer a non-exclusive, non-transferable right to access and use the SaaS Features during the Contract Term, solely for use by authorized users in accordance with the terms and conditions herein. Such use is limited to Customer's use related to the Property. Service Provider shall provide to Customer the necessary passwords and network links or connections to allow Customer to access the SaaS Features.

4.4 Documentation License. Subject to the terms and conditions contained in this Agreement, Service Provider hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use the Documentation during the Contract Term solely for Customer's internal business purposes in connection with its use of the Services.

## **5. SERVICE PROVIDER EQUIPMENT**

5.1 Subject to and conditioned on Customer's payment of Fees and compliance with all the terms and conditions of this Agreement, Service Provider shall provide to the Property the Service Provider Equipment. The Service Provider Equipment will at all times be owned by Service Provider and nothing in this Agreement operates to assign the ownership of the Service Provider Equipment to Customer. The parties agree, to the fullest extent permitted by law, the law in relation to fixtures does not apply to the Service Provider Equipment.

5.2 Customer shall promptly notify and provide a complete written report to Service Provider of any lost, damaged or stolen Service Provider Equipment or any accident involving the Service Provider Equipment that results in personal injury or property damage. Customer shall reimburse Service Provider for loss and expense incurred by Service Provider as a result of the damage, loss or theft of any Service Provider Equipment. For the avoidance of doubt, the provision of the Service Provider Equipment constitutes a one time capital investment made by the Service Provider for the purpose of fulfilling its obligations in this Agreement, and in no event shall the provision of the Service Provider Equipment be deemed to oblige the Service Provider to make any further capital investments under this Agreement, including without limitation, any replacement or upgrades of any out-dated equipment.

5.3 Customer shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Service Provider Equipment and Services, including, without limitation, modems, hardware, servers, software, operating systems, networking, web servers and the like. Customer shall also be responsible for maintaining the security of the Service Provider Equipment, Customer account, and passwords (if any), and for all uses of Customer account or the Service Provider Equipment with or without Customer's knowledge or consent.

5.4 Service Provider shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Service Provider or by third-party providers, or because of other causes beyond Service Provider's reasonable control, but Service Provider shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled Service disruption.

5.5 Service Provider shall also provide a warranty of one (1) year for all Service Provider Equipment (parts and labor only, normal wear and tear excluded), with replacement hardware to be delivered to Customer within fourteen (14) days of written notice by Customer of a legitimate warranty claim (shipping and handling to be covered by Service Provider). HOWEVER, SERVICE PROVIDER DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES SERVICE PROVIDER MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED

WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. The maintenance warranty stated under this clause does not cover repair or replacement for loss of or damage to Service Provider Equipment arising out of power surges, interruptions or outages, mishandling, accidents, negligence and other misconduct. For the avoidance of doubt: (a) Service Provider shall not be responsible for maintaining any Service Provider Equipment without the payment of the applicable Service Fees; and (b) in no event shall the Service Provider be responsible for maintaining any hardware purchased by the Customer from third parties.

## **6. FEES AND PAYMENT**

6.1 Service Provider shall be entitled to invoice Customer monthly for those Fees described in the Order Form. If Customer's use of the Services requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such additional fees as and when incurred or accrued. If Customer believes that Service Provider has billed Customer incorrectly, Customer must contact Service Provider no later than 60 days after the closing date on the first billing statement in which the challenged fee appears, in order to receive an adjustment or credit. Inquiries should be directed to Service Provider's customer support department.

6.2 Customer shall pay the Fees invoiced by Service Provider within thirty (30) days of the date of invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection.

6.3 If any Fees remain unpaid for more than sixty (60) days from the date of Service Provider's invoice, Service Provider may suspend the Services until Service Provider is in receipt of the Fees (including interest) from Customer, provided that Service Provider gives Customer at least five (5) Business Days' prior written notice of its intention to suspend Service. This remedy is in addition to any other remedies that Service Provider has available under this Agreement or at law.

6.4 All Fees stated in this Agreement which are due from Customer to Service Provider are exclusive of all Taxes which, where applicable, will be paid by Customer to the relevant government authority and shall be made less any withholding tax that Customer is required to deduct under law.

## **7. CUSTOMER OBLIGATIONS**

7.1 Customer is obligated to provide at all times appropriate and adequate Internet access at the Property and to make such Internet access available to Service Provider as necessary for providing the Services.

7.2 Customer shall provide Service Provider and its Personnel access to the Property in a timely manner as required by Service Provider and its Personnel for a site survey, installation (if requested),

maintenance of the System (if required) and for the removal of any equipment belonging to the Service Provider as at the expiry or earlier termination of this Agreement.

7.3 Save as maintained by the Service Provider as provided for specifically in this Agreement, Customer shall, at its own cost, provide, operate and maintain in good working order and repair any components of the Property network which belongs to the Customer.

7.4 Customer shall provide complimentary guest rooms at the Property and complimentary parking for Service Provider's Personnel in the event that any work requested by the Customer requires Service Provider's Personnel to stay at the Property.

## **8. INTELLECTUAL PROPERTY**

8.1 Each party (Licensor) gives the other party (Licensee) a limited, non-transferable licence to use such of Licensor's owned Intellectual Property which the Licensee requires for the purposes of this Agreement (Licensed Intellectual Property) provided that the Licensee shall not (i) use the Licensed Intellectual Property other than for the purpose of performing its obligations under this Agreement; (ii) part with possession of the Licensed Intellectual Property; or (iii) modify, alter or vary the Licensed Intellectual Property without the prior written approval of the Licensor.

8.2 The Licensed Intellectual Property will remain the property of Licensor and nothing in this Agreement operates to assign the Licensed Intellectual Property to the Licensee.

8.3 Upon any expiration or termination of this Agreement, both Parties must immediately cease using all Licensed Intellectual Property and/or Third Party Intellectual Property, and at the direction of the Licensor, either return or destroy the Licensed Intellectual Property and/or the Third Party Intellectual Property.

8.4 Each Party specifically agrees that it will not and must not permit others, including its Personnel to translate, decompile, reverse engineer, disassemble, decompose, modify or copy the Licensed Intellectual Property and/or the Third Party Intellectual Property, or otherwise access or use the Licensed Intellectual Property and/or Third Party Intellectual Property in any manner inconsistent with the rights granted under this Agreement, or adapt the Licensed Intellectual Property and/or Third Party Intellectual Property in any way, or use it to create a derivative work.

## **9. CONFIDENTIALITY**

9.1 Each party agrees that it may only use the Confidential Information of the other party solely for the purposes of performing its obligations under this Agreement and shall not disclose the other party's Confidential Information without the prior written consent of the other party except when required by law.

9.2 Service Provider shall have the right collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer data (and data derived therefrom), and Service Provider will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Service Provider offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

## **10. TERMINATION**

10.1 A party may terminate this Agreement by giving written notice if the other party:

(i) breaches any material provision of this Agreement and such failure continues for thirty (30) days after receiving a written notice from the first party; or

(ii) is placed into, whether voluntarily or not bankruptcy, receivership or liquidation or is subject of a petition for relief under any bankruptcy, reorganisation, receivership, liquidation, or compromise arrangement.

10.2 The expiry or earlier termination of this Agreement is without prejudice to any remedies available to either party at law, in equity or under statute and shall in no way interfere with, affect or prevent the right of either party to recover any amounts due and owing to the other party or any damages, claims or losses arising from any breach by the other party of any of the terms of this Agreement.

## **11. LIMITATION OF LIABILITY**

11.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY, SERVICE PROVIDER AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND COMPANY'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO SERVICE PROVIDER FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR

NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR WHETHER SUCH DAMAGES WERE FORESEEABLE.

## **12. GENERAL**

12.1 Relationship of the parties. The parties acknowledge and agree that they are only independent contractors.

12.2 Notices. Notices required or permitted under this Agreement will be in writing and will be effective when either delivered in person or deposited as registered or certified mail, postage prepaid, addressed to the party at the address for that party in the Order Form. Either party may by written notice to the other Party designate a different address.

12.3 Governing law and Jurisdiction. This Agreement will in all respects be governed by and construed in accordance with the laws of the State of California, United States of America, applicable to agreements made and to be performed entirely within that state, including all matters of construction, validity, and performance. The United Nations Convention on Contracts for the International Sale of Goods will not apply to the interpretation or enforcement of this Agreement.

12.4 Dispute Resolution. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Los Angeles County before one arbitrator. The arbitration shall be administered by JAMS pursuant to JAMS' Streamlined Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

12.5 Force Majeure. The obligations of a party, other than the obligation to pay money, shall be suspended during the time and to the extent that the party is prevented from or delayed in complying with that obligation by a Force Majeure Event, provided that the party notifies the other party and promptly takes appropriate action to remove or mitigate any Force Majeure Event at the earliest possible time. Force Majeure Event means a circumstance beyond the reasonable control of a party which occurs without the fault or negligence of the party affected, including war, mobilization, insurrection, accident, natural disaster, explosion, rebellion, civil commotion, riot, act of an extremist, terrorist or public enemy, sabotage, labor dispute, lockout, strike, explosion, fire, flood, storm, accident, drought, power failure, inability to obtain suitable and sufficient energy, labor or material, delay of carriers or embargo.

12.6 Survival. Any clause which by its nature is intended to survive the termination, expiry or repudiation of this Agreement by any party for any reason whatsoever shall so survive.

12.7 Entire Agreement. This Agreement contains the entire understanding and agreement of the parties with respect to its subject matter and it supersedes any and all other agreements, either oral or in writing,



between the parties with respect to that subject matter. Without limiting the preceding, neither party is relying upon any covenants, warranties, representations, or inducements not set forth in this Agreement.

12.8 Assignment & Novation. Neither party may assign or novate this Agreement without the consent of the other party.

12.9 Severability. Each provision in this Agreement will be treated as a separate and independent clause, and the unenforceability of any one clause will in no way impair the enforceability of any of the other clauses in this Agreement. Moreover, if any provision of this Agreement is for any reason held to be void, invalid or unenforceable as written, that provision will be void to the extent it is contrary to applicable law and the balance of this Agreement will remain in full force and effect unless enforcement of this Agreement without the invalidated provision would be grossly inequitable under all of the circumstances or would frustrate the primary purposes of this Agreement. Alternatively, if a court, arbitrator, or arbitration panel determines that any provision of this Agreement is not enforceable as expressly written, it is the intention of the Parties that those provisions be modified by the court, arbitrator, or arbitration panel only to the extent necessary for them to be enforceable.

12.10 Third Party Rights. Notwithstanding anything contained in this Agreement, the application of any law which would provide rights to third parties, whether by statute, convention, by-law or common law, are hereby specifically excluded.

12.11 Counterpart Execution Allowed. This Agreement may be executed in counterparts. Each counterpart will be considered an original, and all of them, taken together, will constitute a single Agreement.

12.12 Electronic Execution Allowed. This Agreement may be executed electronically by either (i) emailing a reproduction (e.g., scan) of a hand-signed hard copy of the document (or signature page) or (ii) emailing the document (or signature page) in PDF form with an electronic signature applied (whether or not the signature is digitally verifiable and whether the signature is an image, a drawing, or a typed name).