



MANAGED SERVICES GENERAL TERMS AND CONDITIONS

1 PROVISIONS FOR MANAGED SERVICES

1.1 Managed Services

- 1.1.1 Managed Services is defined as Service work that GDS performs as defined and designated as “Managed Services” in the Proposal.
- 1.1.2 Managed Services work will be provided as detailed in a Proposal
- 1.1.3 In the event the Due Date is delayed by no fault of GDS, GDS and CUSTOMER will make all reasonable efforts to agree upon a new Due Date.
- 1.1.4 CUSTOMER shall adhere to the Managed Services Installation Guidelines set forth in the Proposal.
- 1.1.5 In no event will GDS be liable for failure to meet the Managed Service work as set forth in the Proposal when such failure is due to an act or omission by CUSTOMER.
- 1.1.6 CUSTOMER's sole remedy for a failure by GDS to provide Managed Services as set forth in the Proposal will be for the CUSTOMER to request a credit for the Managed Services not performed or request the Managed Services be performed at a service date that is acceptable to GDS.
- 1.1.7 Security Measures. GDS will maintain commercially reasonable security measures that are designed to (a) ensure the security of the Customer Data stored by GDS in the Hosting Environment; (b) protect against any anticipated threats or hazards to the security or integrity of the Customer Data stored by GDS in the Hosting Environment; and (c) protect against any unauthorized access to or use of the Customer Data as stored by GDS in the Hosting Environment.
- 1.1.8 Notification and Prevention Obligations. Upon becoming aware, GDS shall promptly notify Customer of any actual security breach in its Hosting Environment that may result in the unauthorized access to or disclosure of unencrypted Customer Data. This notification will state in reasonable detail the Customer Data at risk. GDS agrees to take all actions reasonably necessary under the circumstances to immediately prevent the continued unauthorized access of such information. GDS further agrees that in the event of a breach of confidentiality or security, it will work in good faith and cooperate with Customer to address the breach. GDS shall not be responsible or liable for any security breach caused by Customer.
- 1.1.9 Content. Customer is solely responsible for: (a) all Content including, without limitation, its selection, creation, design, licensing, installation, accuracy, maintenance, testing, backup and support; (b) all copyright, patent and trademark clearances in all applicable jurisdictions and usage agreements for any and all Content; (c) the selection of controls on the access and use of Content; and (d) the selection, management and use of any public and private keys and digital certificates it may use with the Services. Customer agrees not to access the Hosting Environment by any means other than through the interface that is provided by GDS for use in accessing the Hosting Environment.
- 1.1.10 Required Consents. Customer shall obtain and keep in effect all Required Consents necessary for GDS to perform all of its obligations as set forth in this Contract. Upon request, Customer will provide to GDS evidence of any Required Consent. GDS will be relieved of its obligations to the extent that they are affected by Customer's failure to promptly obtain and provide to GDS any Required Consents. GDS will adhere to reasonable terms and conditions pertaining to Content as notified in writing to GDS. GDS agrees not to remove or alter any copyright or other proprietary notice on or in any Content without Customer's consent.

- 1.1.11 Software. Customer authorizes GDS to determine whether or not software specified in any SOW is currently in place, operational and maintained and supported at the level required for GDS to perform the Services required under this Contract. Customer grants GDS, at no charge, the right to use any Customer-owned or developed application software systems required by GDS to provide the Services specified in any SOW to Customer.
- 1.1.12 Capacity Planning. Customer is solely responsible for determining whether the services, Hosting Environment, and related Content meet Customer's capacity, performance, or scalability needs. Customer is responsible for planning for and requesting changes to the Hosting Environment and services, including any additional capacity required to support anticipated peaks in demand that may significantly increase website hits, transaction volumes, or otherwise increase system resource utilization.
- 1.1.13 Customer Components. Customer is solely responsible for the selection, operation and maintenance of all Customer Components.
- 1.1.14 Security. Customer shall (a) use reasonable security precautions in connection with its use of the Services, i.e., maintain up-to-date virus scanning and operating system security patches and firewall protection; (b) require each User to use reasonable security precautions, i.e., maintain up-to-date virus scanning and operating system security patches and firewall protection. In addition, Customer shall not take any action or install any software that may preclude or impair GDS's ability to access or administer its network or provide the Service.

2 PAYMENT TERMS FOR MANAGED SERVICES

2.1 Managed Services

- 2.1.1 Unless otherwise agreed in writing by the Parties or stated in a Proposal, GDS will invoice, and CUSTOMER will pay, monthly in advance for the Managed Services provided by GDS, including all applicable federal, state, provincial, local, and other taxes, including value added tax and fees, including, if applicable, any fees established by a regulatory authority, which may be attributable to the sale or use of Managed Services

3 OUTAGE CREDITS

- 3.1 An Outage Credit, if any, will be applied against the charges payable to GDS and will be expressly indicated on the final invoice to CUSTOMER of the calendar year in which Outage Credit applies, for the period of the Outage, or prorated portion thereof, after written request to GDS.
- 3.2 Otherwise stated in a Proposal, a maximum credit allowance ("Outage Credit") equal to one month of recurring base charges for the Service experiencing the Outage will be reflected on CUSTOMER's invoice in the final month of the calendar year following an Outage,
- 3.3 No other liability may in any event attach to GDS on account of interruption or failure to provide Services. All Outage Credit(s) will be treated as liquidated damages and not as penalties. Outage Credit(s) do not apply to Outages, (i) caused by Force Majeure, (ii) caused by the negligence of CUSTOMER or others authorized by CUSTOMER when using Services or Products, (iii) caused by power failures or similar occurrences, such as perforation activity, not provided by or attributable to GDS, (iv) occurring during periods when CUSTOMER has elected not to allow for testing or repair, (v) caused by rain fade, solar outages or flares, extreme weather, or damage to satellites, or (vi) caused by the failure of equipment or facilities not provided by GDS.