



## Palmer Technology Solutions Terms and Conditions

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**INSTALLATION:** Installation labor is an approximate, and can vary according to the equipment to be installed, data to be transferred, and cooperation of third party vendors. Any overages will be charged at the appropriate PTS Billing Rate unless a Scope of Work is approved prior to the work being performed.

**WARRANTIES:** The labor warranty on equipment purchased through PTS is for 30 days and does not include data recovery or restoration. After 30 days, all labor by PTS (including troubleshooting, contacting the manufacturer, physically replacing the part, RMA etc.) will be invoiced at the appropriate PTS Billing Rate. Most manufacturers' parts come with a one-year warranty. Warranties on labor apply to installation labor only. There are no labor warranties on work performed on operating systems, applications, drivers or software. There are no labor warranties for recovering data after failure due to hardware, software or software updates.

**SUPPORT:** To request support call 210-341-4806 option 1 or email [support@palmerts.com](mailto:support@palmerts.com).

**QUOTES:** All quotes are non-valid after 30 days

**LICENSING:** Licensing pricing is dictated by the software manufacturers and is subject to change without notice. If there is a price change for licensing, notification will be provided when additional licenses are purchased or at the time of a contract payment.

**DATA DESTRUCTION OF MEDIA:** PTS will destroy media using the National Association for Information Destruction (NAID) certified process after receiving written authorization from the customer for a fee of \$20.00 per device. Notify [customerservice@palmerts.com](mailto:customerservice@palmerts.com) at PTS that you approve NAID of your media.

**PRODUCT:** Product left at PTS by anyone for more than 60 days will be recycled and will not be destroyed using (NAID) without written approval and payment from customer.

**LABOR RATES:** There will be a minimum one-hour labor charge for all on-site labor. After the first hour, labor is billed in 15 minute increments. The labor charge for remote service will be billed in 15 minute increments. The following labor rates apply: In-House Rate is \$75.00 per hour for carry-in, non-server and non-network service. The Standard PTS Rate is \$125.00 per hour, Emergency Rate is \$175.00 per hour, After Business Hours Rate is \$175.00 per hour and the Weekend Rate and Holiday Rate is \$225.00 per hour. SLA customers with available SLA hours will be billed per the agreement. Unlimited Business Hours SLA work performed after business hours, weekends or holidays are discounted and billed at \$75.00 per hour. Travel inside of San Antonio is at no charge. Travel over 50 miles from Palmer Technology Solutions is billed at \$75.00 per hour. Pre-installation labor is NON-REFUNDABLE. LABOR IS NON-REFUNDABLE.

**PROVISION:** During extreme and extenuating circumstances, PTS reserves the right to limit/eliminate Onsite services to protect the health and safety of our employees, customers, and community.

**GENERAL TERMS AND CONDITIONS:** With approved credit, 50% is due on acceptance of the quote. Balance is due prior to delivery of equipment unless other arrangements have been made with the Accounting Department. All labor charges are applied to the initial deposit and are non-refundable. Visa, MasterCard and Discover are accepted. If customer's account becomes 60 days past due, the account will be placed on DO NOT PERFORM status until the account is current. Payments made will be applied to past due invoices first unless notification in writing is provided on the invoices in question. PTS will impose a late charge on invoiced amounts over 30 days outstanding equal to 1.5% per month of the unpaid until the entire balance is paid in full. PTS reserves the right to place a customer on COD status if the account is past due. PTS also reserves the right to bill the customer for costs that are incurred by PTS for certified letters and other postage as a result of customer delinquent or non-payment. No refunds on special orders. 15% restocking fees apply. All Dell equipment and software is NON-RETURNABLE. 30-Day warranty on used equipment unless otherwise stated. Clients are responsible for backup of data prior to service. Palmer Technology Solutions is not responsible for lost or damaged data. If equipment is abandoned for 60 days, it will become the property of Palmer Technology Solutions. As a condition to the sale and delivery of the goods described above, and/or for the services described above, the undersigned expressly grants to Palmer Technology Solutions a Security Interest in the goods described in this purchase order and in any goods upon which services described above are performed, to secure any and all obligations of the undersigned to pay for the goods or services provided. If the undersigned defaults on the obligation to make timely payment for any goods or services described above, or described in any invoice which may include goods or services not specifically described above but which have been delivered to the undersigned, which default remains uncured for a period more than ten days after the undersigned receives notice of such default, then Palmer Technology Solutions, may declare the unpaid balance immediately due and accelerated. The undersigned waives notice of acceleration. Any notice will be deemed to have been given, whether actually received or not when deposited in the United States Mail, postage prepaid, certified or registered, addressed to Customer at Customer's last known mailing address according to Palmer Technology Solutions records. Neither delay in exercise nor partial exercise of any of Palmer Computer Services, its failure to exercise remedies or rights does not waive subsequent exercise of those remedies or rights, its partial waiver of any default shall be deemed a waiver of any rights or remedies or of any further default. If the undersigned defaults and the obligation is given to an attorney for collection or enforcement, or if suit is brought for collection or enforcement, or if it is collected or enforced through probate, bankruptcy, or other judicial proceeding, the undersigned shall pay Payee all costs of collection and enforcement, including reasonable attorney's fees and court costs, in addition to other amounts due. Reasonable attorney's fees shall be not less than 10% of all amounts due, unless either party pleads otherwise. Interest on the debt evidenced by this note shall not exceed the maximum amount of no usurious interest that may be contracted for, taken, reserved, charged, or received under law; any interest in excess of that maximum amount shall be credited on the principal of the debt or, if that has been paid, refunded. On any acceleration or required or permitted prepayment, any such excess shall be canceled automatically as of the acceleration or prepayment or, if already paid, credited on the principal of the debt or, if the principal of the debt has been paid, refunded. This provision overrides other provisions in this and all other instruments concerning the debt. Each of the undersigned is responsible for all obligations secured by this agreement. PTS Agreements and Quotes shall not be modified or altered except by a written instrument duly executed by Customer and by an authorized officer of PTS. When the context requires, singular nouns and pronouns include the plural.

**DISCLAIMER:** Product availability and pricing subject to change without notice.

**LABOR IS NON-REFUNDABLE.**

**RESALE OR TRANSFER:** Use of PTS Products is provided for Customer's organization only. The Customer may not copy, distribute, market, sell, lease, license, sublicense or otherwise transfer PTS Products, the accompanying documentation or any part thereof to third parties or to employees of Customer for use in communications with persons other than the employees of the Customer.

**NONDISCLOSURE OF AGREEMENT TERMS:** Neither party shall disclose PTS's prices, terms, nor conditions provided or quoted pursuant to this Agreement. Both parties shall consider all pricing, terms, and conditions provided by PTS as confidential and shall not disclose such prices to any third party, including but not limited to agents or consultants, without the written consent of the other party.

**PRIVACY OF DATA:** Data received by PTS from the Customer is considered Customer private data. Access to Customer's private data shall be limited to the employees of PTS and the licensed users of the Customer. PTS acknowledges that it may be provided, or have access to, confidential information of Customer. PTS agrees to hold such information in confidence and not to disclose any such confidential information to any third party. Notwithstanding the above, PTS shall have the right to collect data with respect to Customer private data and aggregate said collected data with other customer's data to compile aggregate statistical analysis reports. PTS agrees that any reporting containing aggregate data shall preserve Customer's anonymity and the confidentiality of its private data.

**INDEMNIFICATION OF PTS BY CUSTOMER:** Customer shall indemnify, defend and hold PTS, its officers, directors, employees, affiliates, representatives and customers harmless from any and all losses suffered by (including costs and legal fees), or resulting from or arising out of any action brought by or against PTS, its officers, directors, employees affiliates, representatives or customers arising from or relating to: (a) any violation of any term of this Agreement by Customer or its employees or agents that effects the intellectual property rights of PTS; (b) use of the PTS Products in any violation of law, rule or regulation by Customer or its employees or agents in a manner other than contemplated by the parties for Customer's intended, normal usage; or (c) any misuse of confidential information in violation of this Agreement.

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**LIMITATIONS OF LIABILITY:** THE WARRANTIES SET FORTH ARE IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY OTHER STATUTORY OR COMMON-LAW WARRANTY. PTS AND ITS SUPPLIERS ON THEIR BEHALF HEREBY EXPRESSLY DISCLAIM AND EXCLUDE ANY AND ALL SUCH OTHER REPRESENTATIONS AND WARRANTIES. EXCEPT AS PROVIDED FOR IN THIS PARAGRAPH. LIABILITY OF PTS AND ITS SUPPLIERS TO CUSTOMER, IF ANY, FOR BREACH OF WARRANTY ARISING OUT OF CONTRACT, NEGLIGENCE OR STRICT LIABILITY IN TORT, OR ANY OTHER CLAIM RELATING TO THIS AGREEMENT SHALL BE LIMITED TO THE TOTAL AMOUNT OF PTS PRODUCT LICENSE FEES PAID BY CUSTOMER TO PTS DURING THE PERIOD IN WHICH THE CAUSE OF ACTION OCCURRED. IN NO EVENT SHALL PTS BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF BUSINESS OR PROFITS, SPECIAL OR INDIRECT DAMAGES OF ANY NATURE WHATSOEVER.

**EMPLOYEES:** Customer, including its principals, agents, and any parent, subsidiary, or affiliated companies, jointly and severally, agrees that it will not knowingly solicit or hire, as an employee or contractually, any of PTS's employees or persons employed by PTS without the express written consent of PTS. In the event Customer shall breach any obligation contained in this paragraph, Customer shall pay PTS on demand, damages of Fifty Thousand Dollars (\$50,000.00) for each employee so solicited or hired, it being mutually agreed by Customer and PTS that this provision for liquidated damages is reasonable and that the actual damage which would be sustained by PTS as the result of the failure to comply with this provision would be impractical and extremely difficult to determine, and that the payment of said damages is in no manner punitive.

**INDEPENDENT CONTRACTOR:** Each of PTS and Customer will be and shall act as an independent contractor and not as an agent or partner of, or joint venture with the other party for any purpose, and neither party by virtue of this Agreement shall have any right, power, or authority to act or create any obligation, expressed or implied, on behalf of the other party.

**DISPUTE RESOLUTION:** Negotiation. In the event of a dispute between the parties arising out of or related to this Agreement, either party may initiate dispute resolution proceedings by giving written notice of its claim to the other party within a reasonable time after such dispute arises. Within five (5) calendar days of the receipt of the dispute notice or such other time as the parties may mutually agree, representatives of each party shall meet, confer, and attempt in good faith to resolve the dispute within the next five (5) calendar days. If the dispute is not resolved within two (2) calendar days of the close of the period described in the previous sentence, senior officers of the parties shall meet, confer, and attempt to resolve the dispute by direct negotiation within the next five (5) calendar days or such other time as the parties may mutually agree. The terms of the resolution of all disputes concluded in the proceedings described above shall be memorialized in writing and signed by each party. Unless otherwise agreed by both parties, no dispute may be referred to mediation unless such dispute first has been raised by one party to the other for negotiated resolution in the dispute resolution procedure set forth in this paragraph. Mediation. If the parties are unable to resolve by negotiation any dispute arising out of or related to this Agreement or its breach, they agree to mediate. Upon receipt of a party's written notice requesting mediation, the other party will cooperate in the prompt selection of a mutually acceptable mediator and submission of the dispute to mediation as soon as possible. The expense of the mediator and the mediation facilities shall be borne by the parties equally.