

# **SSP TERMS & CONDITIONS**

Rev. A



**TECH ADVANTAGE**

## WITNESSETH:

**WHEREAS,** TECH ADVANTAGE desires to obtain the services of SSP and SSP desires to provide services to TECH ADVANTAGE for TECH ADVANTAGE's customers for the purpose of installation, deinstallation, repair and maintenance of equipment and other related devices according to the terms and conditions set forth herein;

**WHEREAS,** TECH ADVANTAGE has developed valuable proprietary and confidential information, of which SSP will gain knowledge in the course of SSP's provision of services hereunder and which TECH ADVANTAGE has need to protect;

**WHEREAS,** TECH ADVANTAGE also desires to protect its customers from solicitation by SSP and its personnel and SSP is agreeable to refrain from such solicitation as provided herein in exchange for the services to be provided hereunder;

**NOW THEREFORE,** the parties, for and in consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby agree as follows:

**1.0 Scope.,** SSP will provide on-site repair and maintenance, installation or deinstallation of equipment for customers of TECH ADVANTAGE within a specified geographical area as determined by TECH ADVANTAGE and SSP from time to time. Service requests shall be initiated solely by TECH ADVANTAGE and communicated to SSP and shall include a price and a required onsite response time of either Standard (within 48-hours), Next Business Day (within 24-hours), or 4-Hour (within 4-hours). Upon acceptance and confirmation of a repair service request, SSP shall arrive and provide repairs at the designated on-site location within the given time frame, Monday through Friday, between regular business hours of 8:00am and 6:00pm local time. From time to time, SSP may have the opportunity to provide off-hours or weekend work

**2.0 Bid Process.** All work performed by SSP's for TECH ADVANTAGE shall be awarded through a bid process. TECH ADVANTAGE reserves the right to set the price for any and all repair service requests. Each repair service request shall set the price for the service to be provided. Any SSP responding to a repair service request may submit a bid which is different than the price set by TECH ADVANTAGE. TECH ADVANTAGE shall evaluate and consider all timely submitted bids and will select the SSP to perform the repair service job based on, among other things, the bid submitted, the time the bid is submitted, the qualification of the SSP, the needs of the customer, and the history of the SSP's prior work for customers of TECH ADVANTAGE. NSC shall confirm the award of any repair service job in writing.

**3.0 Technical Support.** TECH ADVANTAGE shall provide authorized SSP repair technicians telephone technical support to assist in diagnosis and on-site repair. Such telephone support shall be provided to SSP free of cost during regular business hours of TECH ADVANTAGE.

**4.0 Requirements of SSP.** It is the responsibility of TECH ADVANTAGE to set a consistent and reliable service platform for delivery to the market. As such, SSPs must agree to the following tenets:

### 4.1 Training Requirements

TECH ADVANTAGE and SSP shall jointly ensure that all SSP technicians are trained to the highest level possible to provide expedient and accurate field repairs of equipment. TECH ADVANTAGE shall evaluate the competency of each SSP to determine if the SSP has been trained to adequate standards as determined by TECH ADVANTAGE. TECH ADVANTAGE may offer training from time to time and any SSP may participate in that training. The cost, if any, of the training will be established at the time the training is offered.



## 4.2 Collateral Requirements

SSP's shall have all necessary OEM maintenance manuals at their disposal on all service calls. TECH ADVANTAGE will provide these manuals through web-accessed files.

## 4.3 On-Site Representation Requirements

TECH ADVANTAGE's network of on-site customers require a consistent level of service, regardless of location or SSP technician providing the service. TECH ADVANTAGE therefore requires that every SSP observe the following service and representation standards when performing field repairs on behalf of TECH ADVANTAGE:

a) Call Coordination — For every service call awarded to an SSP, TECH ADVANTAGE dispatch department will confirm the SSP of their successful bid through automatic email notification and on the SSP Web Portal.

b) Representation — At all times before, during and after TECH ADVANTAGE field service calls, unless specifically instructed otherwise in writing by TECH ADVANTAGE, SSP technicians shall present themselves solely and completely as TECH ADVANTAGE contractors. SSP shall make no reference to SSP company name, phone number, location or business practices, nor provide literature, business cards, contact information or any other item or items, whether requested or not requested by customer, that reference SSP company name, in an attempt to solicit business from TECH ADVANTAGE customers.

c) Dress — SSP technicians shall dress in "business casual" attire, or better, when performing TECH ADVANTAGE service calls. Business casual is defined as "Dockers" style slacks and golf or polo-style collared shirts, dress slacks, button-down style shirts, etc. Denim jeans, T-shirts or other non-collared casual shirts or shirts with offensive or objectionable logos, wording or pictures, or shirts with other company logos are unacceptable.

d) Parts — TECH ADVANTAGE shall ensure that all parts necessary for field repairs, if not available in SSP's trunk stock, will arrive at the field service location or designated UPS facility before SSP is scheduled to begin the repair. SSP, who does not carry TECH ADVANTAGE trunk stock, will return any unused parts to TECH ADVANTAGE after each repair.

e) Trunk Stock — In some cases, TECH ADVANTAGE will supply SSP with spare parts to be kept by SSP and used only in repairs of TECH ADVANTAGE customer equipment. In this case, upon completion of field repairs, SSP shall place all unused parts in their trunk stock. Regular trunk replenishments will be shipped to replenish stock used from the SSP's trunk inventory. A full or partial physical inventory will be required on the first business day of each month and spot checks as requested. TECH ADVANTAGE reserves the right to bill the SSP for lost, stolen, misplaced, or damaged trunk inventory.

f) Call Closure — For every service call performed by SSP, SSP must obtain authorized signature(s) from field service customer(s) on the work order sheets provided by TECH ADVANTAGE. These sheets will be available for download on the SSP Technician Web Portal. SSP technician will be given access to the Web Portal and must close each service using this Portal. Additionally, SSP must upload the signed work order sheet(s) to the Web Portal upon completion of repair(s). Failure of SSP to obtain proper signature(s) and/or upload completed work order sheet(s) to TECH ADVANTAGE, may result withholding of payment for the service call until the matter is cleared up. All completed work orders must be uploaded within 24 hours of call completion. SSP shall attend initial TECH ADVANTAGE provided webinar training in order to begin receiving service requests from TECH ADVANTAGE.



**4.4 Equipment, Tools, and Expenses.** Except for “Trunk Stock” as defined in Section 4.3(e) above, each SSP shall provide their own parts, equipment, and tools necessary for performing any work pursuant to this Agreement. Each SSP shall be responsible for their own expenses, including travel expense and insurance, without receiving any reimbursement from TECH ADVANTAGE.

**4.5 Nature of Relationship.** The parties intend that the relationship created between them by this Agreement shall be that of an independent contractor, not that of employer/employee. TECH ADVANTAGE is interested only in the results to be obtained under this Agreement, and the manner and means of achieving those results are under the control of SSP. Neither SSP, nor any agent or employee of SSP shall be considered an employee of TECH ADVANTAGE for any purpose and therefore neither SSP nor any agent or employee of SSP shall be eligible to receive any of the benefits provided to TECH ADVANTAGE’s employees, including but not limited to unemployment compensation insurance, workers’ compensation insurance, health insurance, vacation pay, sick pay, holiday pay, and retirement benefits. For state and federal tax purposes, neither SSP nor SSP’s agents and employees shall be treated as an employee of TECH ADVANTAGE. Rather, SSP and SSP’s agents and employees shall be responsible for any and all taxes related to any payment for services provided pursuant to this Agreement. The parties further understand that SSP and SSP’s agents and employees are free to provide services to any other person or entity during the term of this Agreement, except as limited by Section 8 below. SSP is free to perform the services contracted for herein personally or employ or contract with another person or entity to perform the services outlined in this Agreement, so long as all other requirements under this agreement are met. SSP acknowledges that there is an opportunity for profit or loss for SSP under this Agreement based on SSP’s initiative, skills, judgment, foresight and business plan. S SP shall be solely and entirely responsible for SSP’s acts and for the acts of SSP’s agents and employees during their performance of services contracted for herein. SSP shall not have any power or authority to bind TECH ADVANTAGE.

**4.6 Liability and Indemnification.** The services provided by SSP and SSP’s agents and employees pursuant to this Agreement shall be performed entirely at the risk of SSP. TECH ADVANTAGE shall not be liable for any act performed by SSP or SSP’s agents or employees in fulfilling SSP’s obligation under this Agreement. S SP assumes all responsibility for the condition of the tools and equipment used, for the safety of the work performed and shall maintain the protection necessary to fulfill SSP’s responsibilities under this Agreement. SSP shall be solely responsible for injuries, damages and losses to products, materials or other goods that are in SSP’s

**AGREEMENT** possession and control to perform the services called for under this Agreement. N SC shall neither be responsible nor liable for any injury or damage to person or property resulting from the performance of services by SSP or SSP’s agents or employees pursuant to this Agreement. SSP agrees to indemnify and hold TECH ADVANTAGE harmless against any and all losses and claims whatsoever arising from SSP’s performances of services pursuant to this Agreement and from any injuries, damages or losses to person or property sustained in connection with the performance by SSP or SSP’s agents or employees under this Agreement.

**4.7 Compliance.** SSP agrees to conduct SSP’s business in a reputable and ethical manner and SSP agrees to comply with all applicable federal, state, and local laws, rules, and regulations.

**5. Term.** Contract set to auto renew after one year unless terminated by either TECH ADVANTAGE or SSP



## **6. Definitions**

6.1 "On-Site" shall mean the business premises, whether formal or informal, of any TECH ADVANTAGE customer or customer of TECH ADVANTAGE Customer.

6.2 "Confidential Information" means any data or information, that is material to TECH ADVANTAGE and is not generally known to the public. To the extent consistent with the foregoing, Confidential Information includes, without limitation:

(a) TECH ADVANTAGE's revenues from all services including but not limited to repair and maintenance services provided by SSP together with all records thereof, as well as all profit and performance reports, and all other financial information of TECH ADVANTAGE;

(b) The lists of TECH ADVANTAGE's customers and customers of TECH ADVANTAGE's customers together with information regarding TECH ADVANTAGE's customers and customers of TECH ADVANTAGE's customers such as names of contact person(s), special needs and demands, current and anticipated requirements for the services and products of TECH ADVANTAGE;

(c) Service specifications, charges, fee schedules and data related to the methods employed by TECH ADVANTAGE to create, market and price its services including those services provided by SSP pursuant to this Agreement;

(d) Information regarding the fee structuring, development and operation of TECH ADVANTAGE's services and products and any information concerning new, planned or potential services of TECH ADVANTAGE;

## **7. Confidential Information and Property of TECH ADVANTAGE.**

7.1 All Confidential Information and all physical embodiments thereof received by SSP while party to this Agreement are confidential to, and are and will remain the sole and exclusive property of, TECH ADVANTAGE. Except to the extent necessary to perform the duties associated with a repair service job awarded to SSP by TECH ADVANTAGE, SSP shall, during the term of this Agreement and for a period of two (2) years after termination of this Agreement for any reason, hold such Confidential Information in trust and strictest confidence, and will not use, reproduce, distribute, disclose or otherwise disseminate, directly or indirectly, the Confidential Information or any physical embodiments thereof and may in no event take, directly or indirectly, any action causing, or fail to take the action necessary in order to prevent, any Confidential Information disclosed to SSP to lose its character or cease to qualify as Confidential Information.

7.2 Upon request by TECH ADVANTAGE, and in any event upon the Agreement Termination Date, SSP will promptly deliver to TECH ADVANTAGE all property belonging to TECH ADVANTAGE and all physical embodiments of Confidential Information. The property of TECH ADVANTAGE and all physical embodiments of Confidential Information (which also constitutes property of TECH ADVANTAGE) shall include but is not limited to all materials defined in the most broad and liberal sense, including but not limited to written, typed, printed, recorded or graphic matter, however produced or reproduced, or stored (including but not limited to tape, computer disk, hard drive, or compact disk), in whatever form or medium, of any kind and description, and whether an original, master, duplicate or copy, including, but not limited to, papers, notes, accounts, books, advertisements, catalogs, manuals, publications, correspondence, computer printouts, cablegrams, mailgrams, telegrams, memoranda, letters or any other form of communications, including inter-office and intra-office communications, reports, studies, analyses, pamphlets, calculations, projections, contracts, charts, plans, specifications, drawings, photographs, plats, sketches, schedules, surveys, agreements, rolodex or similar systems, working papers, corporate records, minutes of board of directors or





committee meetings, books of account, ledger books, notebooks, vouchers, bank checks, cashier's checks, receipts for cashier's checks, canceled checks, check stubs, bill receipts, invoices, desk calendars, "Daytimers", appointment books diaries, diary entries and notes, minutes, transcriptions, sound or video recordings of any type of personal or telephone conversations or of negotiations, meetings or conferences, or things similar to any of the foregoing, whether prepared or developed by SSP.

**8. Covenant against Solicitation of Customers.** SSP agrees that during the term of this Agreement and for a period of two (2) years immediately following the Agreement Termination Date, SSP and SSP's agents and employees shall not, directly or indirectly, on SSP's own behalf or on behalf of any person, firm, partnership, association, firm or business organization, entity or enterprise, solicit, contact, call upon, communicate with any of TECH ADVANTAGE's customers or customers of TECH ADVANTAGE's customers with an intent or for a purpose of providing any product or service provided by SSP; provided that this restriction shall apply only to those TECH ADVANTAGE customers or customers of TECH ADVANTAGE's customers with whom SSP had material contact during such two year period. As used herein, the phrase "material contact" means any interaction between SSP and such TECH ADVANTAGE customers and customers of TECH ADVANTAGE's customers by providing repair and maintenance services pursuant to this Agreement and solicitation of potential customers for the provision of repair and maintenance services for customer's equipment.

**9. Right to Audit.** Notwithstanding that in the performance of services contemplated by this Agreement that SSP is an independent contractor with the authority to control and direct the manner and means of performing those services, the services provided by SSP and SSP's agents and employees must meet the approval of TECH ADVANTAGE and shall be subject to TECH ADVANTAGE's right of inspection and audit to secure the satisfactory completion of those services. TECH ADVANTAGE shall also have the right to audit SSP's work and/or the work of SSP's agents or employees, upon reasonable notice, to insure that the services being performed are within the scope of this Agreement and are being performed in conformance with the terms of this Agreement.

**10. Interpretation; Severability of Invalid Provisions.** All rights and restrictions contained in this Agreement may be exercised and shall be applicable and binding only to the extent that they do not violate any applicable laws and are intended to be limited to the extent necessary so that they will not render this Agreement illegal, invalid or unenforceable. If any term of this Agreement shall be held to be illegal, invalid or unenforceable by a court of competent jurisdiction, the remaining terms shall remain in full force and effect and this Agreement shall be modified to the extent necessary to make the provisions hereof legal, valid and enforceable by a court of competent jurisdiction. The provisions of this Agreement do not in any way limit or abridge TECH ADVANTAGE's rights under applicable law(s), all of which are in addition to and cumulative of TECH ADVANTAGE's rights under this Agreement. The existence of any claim by SSP against TECH ADVANTAGE, whether predicated on this Agreement or otherwise, shall not constitute a defense to enforcement by TECH ADVANTAGE of any or all of such provisions or covenants.

The covenants contained in Sections 7 and 8 of this Agreement shall be construed and enforced as covenants independent of one another. The invalidity or unenforceability of one or more of such covenants shall have no effect on the validity and enforceability of the other covenants contained in Sections 7 and 8 and shall not preclude TECH ADVANTAGE from enforcing the remaining covenants to their fullest extent.

The existence of any claim or cause of action of SSP against TECH ADVANTAGE, whether predicated upon this Agreement or otherwise, shall not constitute a defense, nor otherwise prevent, enforcement by TECH ADVANTAGE of any or all of SSP's covenants set forth in this Agreement.



**11. Relief.** The parties acknowledge that a breach or threat to breach any of the terms of this Agreement by SSP could result in material and irreparable damage and injury to TECH ADVANTAGE, and that it may be difficult or impossible to establish the full monetary value of such damage. Therefore, TECH ADVANTAGE shall be entitled to injunctive relief by a court of appropriate jurisdiction in the event of SSP's breach or threatened breach of any of the terms contained in this Agreement. In addition, TECH ADVANTAGE shall also be entitled to bring an action at law against SSP to recover monetary damages against and from SSP for any breach of this Agreement if such damages can be calculated with reasonable certainty. In the event of any breach or threatened breach of this Agreement by SSP, if TECH ADVANTAGE should employ attorneys or incur other expenses for the enforcement of any obligation or agreement of SSP contained herein, SSP shall reimburse TECH ADVANTAGE, upon demand, for TECH ADVANTAGE's attorneys' fees and such other expenses so incurred.

**12. Termination of this Agreement.** TECH ADVANTAGE may terminate this Agreement, with or without cause, by providing SSP at least sixty (60) days written notice of termination. SSP may terminate this Agreement, with or without cause, by providing TECH ADVANTAGE at least sixty (60) days written notice of termination. The date that this Agreement is terminated in any manner shall be referred to herein as the "Agreement Termination Date."

**13. Waiver.** The waiver by TECH ADVANTAGE of any breach of this Agreement by SSP shall not be effective unless in writing, and no such waiver shall operate or be construed as a waiver of the same or another breach on a subsequent occasion.

**14. Governing Law and Jurisdiction.** This Agreement shall be interpreted and governed by the laws of the State of Virginia. Further, the Courts in Yorktown, VA shall have exclusive jurisdiction of all matters pertaining to this Agreement and disputes between the parties hereto.

**15. Binding Upon Employees, etc.** This Agreement is and shall be binding upon the parties and their respective employees, officers, directors, agents, independent contractors, accountants, attorneys, successors and assigns.

**16. Insurance.** This agreement requires the SSP to obtain and keep in force general liability insurance, workers' compensation, automobile, and business property insurance coverage, as needed. Proof of insurance shall be provided upon execution of the Agreement with TECH ADVANTAGE.

**17. Income and Earnings Taxes.** SSP shall be responsible for all federal state and local taxes calculated on SSP's earnings related to work performed under this Agreement including taxes for any agents or employees of SSP. SSP shall supply TECH ADVANTAGE a valid Tax ID number and current address for TECH ADVANTAGE to use in reporting non-employee income to the Internal Revenue Service.

**Entire Agreement.** This Agreement embodies the entire agreement of the parties on the subject matter herein. No amendment or modification of this Agreement shall be valid or binding upon TECH ADVANTAGE or SSP unless made in writing and signed by the parties hereto. All prior understandings and agreements relating to the subject matter of this Agreement are hereby expressly terminated.

**IN WITNESS WHEREOF,** TECH ADVANTAGE has executed and delivered, and SSP has executed and delivered, this Agreement, under seal, as of the date first shown above.

