

















RESTAURANT TECHNOLOGY INTEGRATORS, INC. SERVICE AGREEMENT 1/1/2019

Service	No Contract Support	Extended Support Up to 5 Terminals	Notes
3 rd Party Credit Card Systems			Support for 3 rd party credit card systems must come from your provider. RTI only provides support for internal credit card systems.
Software version Review / Upgrades (as applicable)	 Available at No Contract Support Labor rate		Patches & upgrades are periodically released to address software & compliance issues. Customer must be current on annual upgrade subscription.
Priority Technical Support		 Priority A	Extended plan receives priority service & support status!
Technical Support Remote Access M-F 8am-10pm	 \$125 per/30min (M-F, 9am-5pm, 1hr min)	 Priority A 24/7/365	Extended plan includes 2 Hours of remote support between the hours of 8am to 10pm every day of the week
Technical Support Remote Access <u>(Nights, W10ekends & Holidays)</u>	 \$150 per/30min* (2 hr min)	 \$110 per/ hr (1 hr min)	*Emergencies Only* Calls between 10pm and 8am will be billed \$110/hr 1 hour minimum, Holidays & Weekends \$110/hr, 1 hour minimum
Technical Support On-Site (9am-5pm, M-F) Excludes Holidays	 \$125 per/30 min plus trip, (2 hr min)	 \$110 hr plus trip (2 hr min)	Extended receives on-site discounted rates.
Technical Support On-Site <u>(Nights, Weekends, Holidays)</u>	 \$225/30 min plus trip, \$350/30 min Holidays (2 hr min)	 \$110 hr plus trip, \$150 Holidays 2 hr min)	Extended receives on-site discounted rates.
Loaner Equipment			No Equipment available for loan, only purchase
Payment Options	ACH Prior to services	*\$79/Month	* Payments are either monthly recurring or annually only. Plan covers the first 2 hours of support per month (M-F 8am - 10pm). Additional support over 2 hours and all after hours support is automatically billed to payment information on file.



I. SERVICE AGREEMENT

This SERVICE AND UPGRADE AGREEMENT (hereinafter referred to as "Agreement" or "Contract") is made and entered into as of (date) _____ by and between Restaurant Technology Integrators, Inc, a Colorado Corporation with its principal place of business 1555 S. Havana Street, Unit F326, Aurora, CO 80012 (hereinafter referred to as "RTI") and _____ a Corporation with its principal place of business at _____ (Hereinafter referred to as "Company").

II. RECITALS

By means of this Agreement, the parties wish to set forth the terms and conditions on which RTI will provide support for RTI software and remote access software. Acceptance of this proposal indicates acceptance of any licensing agreements required by the author(s) of the RTI.

III. TERMS OF PURCHASE AGREEMENT

NOW, THEREFORE, in consideration of the above premises and the mutual covenants contained herein, it is agreed by and between the parties as follows:

- **PRICE/PAYMENT:** As consideration for the products and services to be provided to Company by RTI under the terms of this Agreement, Company shall pay to RTI as follows:

Technical Support - Please select ONE of the Following Plans:

- _____ Extended Monthly Business Support \$79 per location (up to 5 terminals).
 - See schedule on page 1 for services
- _____ No Contract Support
 - See schedule on page 1 for services
 - All No Contract Support will be billed to the EFT account information herein provided with no additional approval required.
- **Payment Penalties:** Ongoing support will be suspended until all account payments are current.
- **Return Policy:** Professional Services are not returnable. All sales are final.
- **SaaSurance:** If elected, must be paid one year in advance and auto-renews annually.

IV. SERVICE AGREEMENT TERM

The monthly service plan \$79 from above will start on the date this agreement is signed, and will be charged every month going forward.

Electronic Funds Transfer (EFT) for monthly service. (Must be filled out, otherwise support will revert to non-support rates hereinafter and licenses will not be upgraded.)

As a duly authorized signer of the financial institution account identified below, I authorize you to perform electronic funds transfer debits from the account for payments due and credits will be applied the same way.

- **Date of Transaction: Day of month this agreement is signed (transaction will be posted with a few days of the date listed)**
- **Recurring monthly at \$79.00**
- **Any additional fees paid via EFT at time of service**
- **Ongoing or until canceled or terminated****

Furthermore, if any such electronic debit should be returned by my financial institution as un-paid (Non-sufficient funds or Uncollected funds), I authorize RTI to collect a returned item fee of \$25 per item by this same electronic debit from the same



account list below and to take both payments in the following month. For accounting purposes, all electronic debits will be reflected on the monthly bank statement that corresponds with the financial institution identified below.

**This authorization is to remain in full force and effect until RTI has rendered a termination notice to Company, or has received 30 day's written notification of the cancellation as to afford RTI a reasonable opportunity to act on it or until the term of authorization expires. Any such notice should be sent to the following address: RTI, 1555 S Havana Street, Unit F326, Aurora, CO 80012.

Financial Institution: _____

City: _____ State: _____ Zip code: _____

Transit / ABA # _____ (usually 9 digits)

Account # _____ (usually on right side of Transit/ADA)

_____ (initial) I agree that the above EFT information will be used to pay monthly support and any settle any invoices over 45 days old.

V. SERVICES AGREEMENT

Full Support Term ("FST")

This Agreement contains specification for phone, emergency, and break/fix support which is ongoing until the end of last month of payment. These services will be provided as part of the Contract Price set forth in the Price/Payment section set above, provided Company is current on both the monthly support and annual service upgrade payments. During the FST, RTI will provide:

- 1. Phone Support: During the FST, the Company will have full phone and remote support as stated in the table on page 1, for problems, and/or inquiries about the RTI program and general computer maintenance issues. The Company will contact RTI via telephone at 888-926-2762 ext. 1. Once RTI has validated the issue, RTI will supply a plan of action.

After hours, Saturday, and Sunday support are reserved for emergency support issues. Low priority calls that can be handled next business day may be billable. Support plan covers 2 hours per month remote technical support M-F, 8am - 10pm. Calls between 10pm and 8am M-F will be billed in 1 hr increments at \$80 per hour. Weekends and holidays will be billed \$80 hr, 2 hr minimum.

- "Emergency" support requests will have first priority. The response time to these service calls is within 1hour. "Emergency" calls are defined as: System completely down, credit cards down, workstation down, or inability to send orders to kitchen. All other support calls will be handled under this support plan during normal business hours Monday-Friday 8:00am-6:00pm MST.
• The support plan covers the first two hours of support per month. Time over 2 hours during normal business hours will be billed at \$10 for every 15 minutes.

- 2. Employee Training: It is the responsibility of Company and its management to train employees. Employee training guides are provided by RTI in the Owner's Manual installed on each computer. Additional training will be provided at our hourly training rates. Please schedule training ahead of time.
3. Software Support & Upgrades: Subject to the terms and conditions set forth below, RTI agrees to provide, and the Customer agrees to purchase, Software support, with respect to the licensed computer programs (the "Licensed Programs"). In providing Software Support to the Customer, RTI agrees to perform the following services:
• Correct any defects or replace any of the Licensed Programs found to be in substantial non-conformance with the program specifications.
• Provide the Customer with enhancements and upgrades, as they become available, to the Licensed Programs. RTI reserves the right to determine what constitutes an enhancement; enhancements billable to RTI are billable to Customer. Labor charges may apply if onsite installation is required.
• Provide reasonable remote technical assistance to the Customer with respect to use of the Licensed Programs;

- Any assistance required to fulfill RTI's obligations under this Agreement, will be provided at no additional charge unless such assistance is found to be the result of hardware failure, user error, neglect or negligence. Assistance required as a result of such failure, user error, neglect or negligence will be compensated by the Customer at RTI's standard hourly rate then in effect, plus reasonable expenses for transportation, meals and lodging.
- RTI will upgrade the RTI Software as deemed necessary. All upgrades will have to be scheduled between both parties.

4. Response Time

- RTI will respond to software service calls in order of priority and will make every effort to respond within the same work day. RTI, however, has established a priority coding system for each problem reported.
- **1. 'A' Priority** - A software error renders the entire system inoperable. Resources assigned within one (1) hour. Resources continue to work on the problem during until the problem is resolved.
- **2. 'B' Priority** - A software error is detected for a system module which seriously impairs systems operations, but does not render it "down." Resources are assigned within four (4) hours and remain assigned until completed.
- **3. 'C' Priority** - Minor problem, but sufficient severity as to warrant correction before the next software release. Generally completed within 30 days.

5. Hardware/Software NOT supported under FST: The following lists hardware/software that is not supported by RTI:

- Telephones and telephone wiring;
- Existing cabling and network wiring;
- All personal printers, copiers, and fax machines;
- Personal laptop, PDA; and other personal equipment
- Microsoft Office and similar productivity suite;
- Antivirus programs;
- Internet explorer and other browsers; and
- Any other software NOT mentioned in the Software Provided list (as stated above)
- Any PC that has Microsoft Windows XP Operating System
- Any Hardware Not purchased from RTI

6. Excluded Service: RTI is not obligated to provide service under the Agreement for service necessitated by vandalism, theft, misuse, hardware malfunction, neglect, acts of third parties, fire, water, casualty, act of God, mob violence, labor disputes, malfunction of affiliated equipment, unauthorized modification of the software, electrical failure, accidents, climatic conditions, or from other causes unrelated to the ordinary operation of the software. This Agreement is void if service is performed on the software by unauthorized individuals, or if attempts are made to modify the software or use the software in a manner not set out in the instruction manual or license agreement. Should it be necessary to perform services outlined in this agreement at the Customer's site, Customer shall be responsible for actual out-of-pocket expenses incurred in travel. RTI is not liable for network and physical PCI compliance violations. This agreement only covers the core POS software, all 3rd party credit card systems and other 3rd party software is specifically excluded from support.

7. Viruses: COMPANY ACKNOWLEDGES THAT IT HAS BEEN WARNED NOT TO DOWNLOAD ANYTHING ON THE MACHINES UNLESS PROVIDED BY RTI UNDER THIS CONTRACT. The following items are NOT covered under our support contract: Viruses, Web pop ups, Spyware, Ransomware, and other malicious acts. In the event any of the above events occur, resulting in disruption of Company's business, RTI will attempt to remove or remedy the problem at our current standard rate.

8. Remote Access: COMPANY ACKNOWLEDGES AND AGREES THAT THE REMOTE PROGRAM IS USED FOR SUPPORT ONLY. RTI PROVIDES SUCH PROGRAM "AS IS" WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESSED OR IMPLIED. INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. ALL REMOTE ACCESS SUPPORT ISSUES ARE SOLVED BY THE REMOTE ACCESS COMPANY.

RTI SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, OR INCIDENTAL DAMAGES INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR REVENUES, COSTS OF REPLACEMENT PRODUCTS OR SERVICE, LOSS OR DAMAGE TO DATA

ARISING OUT OF THE USE OR INABILITY TO USE THE REMOTE ACCESS PROGRAM. UNDER NO CIRCUMSTANCE, INCLUDING BUT NOT LIMITED TO NEGLIGENCE, SHALL RTI BE LIABLE FOR DAMAGES RESULTING FROM USE OF THE SERVICE.

VI. INDEMNIFICATION

Company shall indemnify, defend and hold harmless RTI, its past and present directors, affiliates, partners, officers, employees and agents, from and against all liabilities, damages and expenses, and claims for damages, suits, proceedings, recoveries, judgments or executions (including but not limited to litigation costs, expenses, and reasonable attorneys' fees) (a) arising out of or in connection with any claim that the use of the Company's system or data (including, without limitation, hardware, software, peripherals, technical specifications, configurations or addresses) by RTI infringes any third party patent, copyright, trademark or other property right; (b) which may be suffered by RTI, its past and present directors, affiliates, partners, officers, employees or agents by reason of or in connection with the Company's performance or failure to perform, or improper performance, including the negligence of the Company, its past and present directors, affiliates, partners, officers, employees and agents, of any of the Company's obligations under this Agreement.

VII. FORCE MAJEURE

RTI will not be responsible or liable for, and will be excused from, any non-performance or delay in the performance of any of its obligations under this Agreement if and to the extent that such non-performance or delay:

1. is caused by an act of God, natural disaster, civil disturbance, war, fire, earthquakes, changes in law, regulation or government policy, or non-performance by any third party (including vendors or suppliers), or any other factor beyond the control of Licensor, whether or not foreseeable ("Force Majeure"), and
2. could not have been prevented by RTI 's taking normal and customary precautions. In the event that RTI is excused from the performance of its obligations pursuant to this Section, then RTI will use its best commercial efforts that are practicable under the circumstances to resume performance of its obligations as soon as feasible.

VIII. DISCLAIMER OF WARRANTIES

1. **RTI DISCLAIMS AND COMPANY HEREBY WAIVES ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR INTENDED USE, ANY WARRANTY OF COMPATIBILITY BETWEEN THE SYSTEM, EQUIPMENT, SOFTWARE OR DATA PROVIDED BY RTI AND CUSTOMER OWNED EQUIPMENT OR SOFTWARE, OR ANY LIABILITY IN NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE, WITH RESPECT TO THE SYSTEM, EQUIPMENT, SOFTWARE, DATA OR SERVICES FURNISHED HEREUNDER. COMPANY EXPRESSLY AGREES THAT RTI SHALL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES UNDER ANY CIRCUMSTANCES, (b) INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUES, EVEN IF ADVISED OF THE RISK OF SUCH DAMAGES IN ADVANCE.**
2. **DATA LOSS DUE TO HARDWARE FAILURE, CUSTOMER ABUSE, OR ERRORS, OR ANY ACT OF GOD IS SUBJECT TO MANUFACTURER'S WARRANTY ONLY. RTI WILL NOT BE HELD LIABLE FOR ACTUAL OR POTENTIAL FINANCIAL LOSS DUE TO SYSTEM CRASH OR ANY MALICIOUS ACTS SUCH AS THEFT OR FOUL PLAY. RTI IS A SERVICE PROVIDER FOR THE DINERWARE SOFTWARE AND POS HARDWARE PROVIDED BY RTI ONLY. RTI AND ITS EMPLOYEES, REPRESENTATIVES AND/OR AFFILIATES ARE NOT LIABLE FOR ANY BUGS, HARDWARE FAILURES OR MALFUNCTIONS, OR ANY PROBLEMS ASSOCIATED WITH HARDWARE AND SOFTWARE INCLUDING, BUT NOT LIMITED TO, PRODUCTS DEVELOPED OR MANUFACTURED BY THE MICROSOFT CORPORATION OR ANY OF ITS AFFILIATES OR SUBSIDIARY CORPORATIONS.**
3. **DISCLAIMER. RTI EXPRESSLY DISCLAIMS ANY LIABILITY OR LOSS ARISING FROM OR RELATED TO THE RTI SERVICES, THIRD PARTY SERVICE PROVIDERS OR THIS AGREEMENT (HOWEVER ARISING, INCLUDING NEGLIGENCE), INCLUDING WITHOUT LIMITATION, LIABILITY OR LOSS ASSOCIATED WITH UNAUTHORIZED ACCESS TO A SERVER, RESELLER INTERFACE, WEBSITE, FACILITY, YOUR DATA OR YOUR CUSTOMER DATA (INCLUDING CREDIT CARD NUMBERS AND OTHER PERSONALLY IDENTIFIABLE INFORMATION) DUE TO ACCIDENT, ILLEGAL OR FRAUDULENT MEANS, INCLUDING HACKING, OR DEVICES USED BY ANY THIRD PARTY, OR OTHER CAUSES BEYOND RTI'S REASONABLE CONTROL.**

IX. CONFIDENTIAL INFORMATION

Confidential information supplied by one party to another pursuant to this Agreement (“Confidential Information”) is for the exclusive use of the receiving party and shall not be disclosed or made available to any other person, firm, corporation or governmental entity in any form or manner whatsoever; provided, however, that in the event Confidential Information is subpoenaed or otherwise requested or demanded by any court or governmental authority, the receiving party shall give written notice to the disclosing party prior to furnishing the same and shall, at the request of the disclosing party, exercise reasonable business efforts in cooperation and at the sole expense of the disclosing party, to quash or limit such request, demand and/or subpoena. The receiving party's obligations include treating Confidential Information with at least the concern and protective measures accorded any trade secrets, proprietary or confidential information and materials of the receiving party. Nothing herein shall be construed to require the disclosure of Confidential Information to the receiving party, or to require the receiving party to accept Confidential Information.

X. ARBITRATION

The parties agree that they shall endeavor to settle any dispute that arises under this Agreement, except for a dispute arising from the Company's failure to timely pay the Total Contract Price, by arbitration. The parties agree to conduct the arbitration in Arapahoe County, Colorado; administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The arbitrator may award monetary damages, injunctive relief, recession, restitution, costs and attorney's fees. The arbitration award shall be final and binding regardless of whether one of the parties fails or refuses to participate in the arbitration. The arbitrator shall not have the power to amend this Agreement in any respect.

XI. MISCELLANEOUS

1. If any provision of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other provision hereof.
2. This Agreement represents the entire agreement of the parties with respect to the subject matter hereof and supersedes any other previous understanding, commitments, or agreement, oral or written, between RTI and Company with respect to the subject matter hereof.
3. No failure by either party to insist upon the strict performance of any covenant, term or condition of this Agreement, or to exercise any right or remedy, shall constitute a waiver of such right or remedy on any subsequent occasion.
4. The validity, construction, scope and performance of this Agreement shall be governed by the laws of the State of Colorado, exclusive of its choice of law provisions.
5. This Agreement supersedes any prior Agreement written or oral between the parties and contains the entire understanding between the parties relative to maintenance of the Licensed Programs and, except as provided herein, this Agreement may not be amended except in writing executed by duly authorized representatives of both parties.
6. This Agreement may not be assigned by Company without the express written consent of RTI, which consent may be withheld in RTI's sole discretion. Subject to the foregoing, this Agreement will be binding on the parties and their respective successors and permitted assigns. In the event Company sells or otherwise transfers the business in which the equipment and services described in this Agreement are located, this Agreement shall be binding on Company's successors, including any of Company's financial obligations to RTI that are due and owing and have not been paid in full.
7. PCI Compliance waiver. Customer waives all rights and understands that RTI provides such POS Software 'as-is' without warranty of any kind, either expressed or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose, or non-infringement, or arising from a course of dealing, usage, or trade practice. RTI shall not be liable for any indirect, special, consequential, or incidental damages including, without limitation, lost profits or revenues, costs or replacement products or service, loss of damage to data arising out of the use or inability to use such program. Under no circumstance, including but not limited to negligence, shall RTI be liable for damages resulting from any breach. Customer is ultimately responsible for being compliant, set by the PCI Security Compliance Counsel.
8. This Agreement may be signed in one or more counterpart copies, all of which together shall constitute one Agreement and each of which shall constitute an original.
9. Nothing in this Agreement is intended or shall be construed to create or establish an agency, partnership, or joint venture relationship between the parties.
10. The captions in this Agreement are for convenience only and in no way define, limit, or enlarge the scope of this Agreement or any of the provisions therein. Capitalized terms shall have the meanings assigned in this Agreement.



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11. Except for Company's obligation to make payments hereunder, neither party will be deemed in default of this Agreement as a result of a delay in performance or failure to perform its obligations caused by an event of Force Majeure, or for any other cause beyond the control of that party.
12. Free access. RTI shall have free access to the equipment and software to perform service thereon.
13. Customer agrees to pay all sales taxes where applicable for services rendered pursuant to this agreement.
14. The execution of this Agreement shall not effect, in any way, any of the terms and conditions of the Software License granted to the Customer pursuant to the Software License Agreement between the parties.

ACKNOWLEDGED AND AGREED:

IN WITNESS WHEREOF, the parties hereto executed this Agreement upon the date first shown above.

Company Legal Name: _____

Full Address _____

Date _____ Title: _____

Customer Name: _____

Signature: _____

Email: _____

Phone #: _____