

Services Agreement

Event 1 Software, Inc., an Oregon corporation ("Event1"), and _____ ("Customer") agree that the following terms and conditions shall govern support services and/or consulting services to be provided by Event1 to Customer, as more particularly defined in Section 1.A.(i) and Section 1.B.(i) below (hereinafter sometimes referred to collectively as "Services").

1. Services

A. Support Services

- (i) Support services to be performed or delivered by Event1 under this Agreement may include, but are not limited to, technical support, investigation, research, installation evaluations, and communication (collectively, "Support Services") .
- (ii) During the term of this Agreement, Customer may submit written requests for Support Services to Event1. Upon written acceptance by Event1, each such request shall become part of and be subject to the terms and conditions of this Agreement.
- (iii) For each request for Support Services issued by Customer and accepted by Event1, Event1 will assign a case number identifying a Support Case. The Support Case shall be considered a management instrument that documents the original request, all subsequent related communications, and related actions. A Support Case will have a status of "Open" until (i) Customer and Event1 mutually agree in writing that the request has been fulfilled, (ii) Customer fails to provide necessary data or information as described in Section 1.C.(ii) below, and as a result thereof, Event1 determines and notifies Customer in writing that the request cannot be fulfilled, (iii) for any other reason Event1 determines and notifies Customer in writing that the request cannot be fulfilled, (iv) Customer requests that the Support Case be closed, or (v) Event1 judges the request to have been fulfilled with or without confirmation from Customer. Event1 shall notify Customer in writing when a Support Case has been closed.
- (iv) The term "Support Representative" with respect to Support Services shall mean and include, without further definition, Project Manager, Program Manager, Developer, Support Representative, Trainer, or any other classification now or in the future used by Event1 to classify its personnel.

B. Consulting Services

- (i) Consulting services to be performed or delivered by Event1 under this Agreement may include, but are not limited to, services with respect to technical support, special studies, installation evaluations, tools, utilities, and components, programming and documentation, application design and development, systems analysis and design, conversions, communication, and implementation planning (collectively, "Consulting Services").
- (ii) During the term of this Agreement, Customer may submit written orders for Consulting Services to Event1. Upon written acceptance by Event1, each such order shall become part of and be subject to the terms and conditions of this Agreement.
- (iii) For each order for Consulting Services issued by Customer and accepted by Event1, the parties shall mutually agree to and attach thereto a Scope of Work ("SOW") with a written estimate of the tasks, deliverables, and conditions for acceptance of deliverables, schedule for performance, and cost for providing the requested Consulting Services. Customer and Event1 may amend the SOW only by mutual written agreement as set forth with particularity in Section 4 below. If there is any conflict of terms between this Agreement and those of the SOW, the terms of the SOW shall prevail. Addendum D of this Agreement, attached hereto and by this reference incorporated herein, illustrates a template SOW.
- (iv) The term "Consultant" with respect to Consulting Services shall mean and include, without further definition, Project Manager, Program Manager, Developer, Consultant, Trainer, or any other classification now or in the future used by Event1 to classify its personnel or whom Event1 assigns to provide or manage Consulting Services to Customer under the SOW.

C. Services – General

- (i) Hours of Service: Services will be provided during the hours of 8:00 a.m. to 5:00 p.m. Monday through Friday, excluding Event1 holidays. The applicable time zone for these hours shall be the time zone of the location from which Event1 provides Services. Customer may request in writing extended hours beyond the normal hours of service at the prevailing surcharge rates.
- (ii) Customer shall furnish Event1, at Customer's expense, all technical data and information as Event1 determines necessary to furnish Services needed to fulfill the request stated in the Support Case or the order stated in the SOW. Customer shall grant Support Representative(s) or Consultant(s) access to Event1 programs and files at such times as may be required for the adequate delivery of Services.
- (iii) In accordance with Section 7 below, Event1, at its option, may grant Customer the right to use Event1 tools, utilities, and components (collectively, "Components") developed by Event1 to aid in the delivery of Support Services related to the Support Case or to enhance the functionality of Event1 software products and aid in the delivery of Consulting Services stated in the SOW. When providing Services, Event1 may order continuing support for the specified Components pursuant to Event1's service schedule for its software products. With respect to Support Services, Event1 shall provide continuing support for the specified Components solely to satisfy the request stated in the Support Case while its status remains "Open", and not for any other purpose.
- (iv) Event1 shall use reasonable effort to perform the Services in a timely manner, but Event1 shall not be responsible for any delays resulting from circumstances beyond its control.

2. Term and Termination

- A. This Agreement shall become effective on the date of written acceptance by Event1 and shall remain in force until terminated upon thirty (30) days prior written notice from either party. Completion of any ordered Services or the absence of requests or orders for additional Services shall not terminate this Agreement, it being the intent of the parties to keep this Agreement in effect in the event of future requests or orders for Services.
- B. Event1 shall have the right to terminate this Agreement upon the occurrence of any of the following events: (i) Customer fails to perform or observe any of its obligations to Event1 under this Agreement, including, but not limited to, the timely payment of any sums due Event1 and such failure is not remedied or cured to the reasonable satisfaction of Event1 within thirty (30) days after Event1 has sent written notice to Customer; (ii) Customer admits in writing its inability to pay its debts generally as they become due, or executes an assignment or similar document for the benefit of creditors; (iii) the appointment of a receiver, trustee in bankruptcy, or similar officer for the equity or assets of Customer; or (iv) Customer assigns this Agreement without the prior written consent of Event1. Termination shall not be Event1's exclusive remedy and no such termination shall adversely affect any claim, right, or action which Event1 may have for damages or otherwise against Customer regarding any failure of Customer to perform or observe its obligations to Event1.

3. Support Plans (for Support Services only)

- A. Customer may elect to purchase a combination of prepaid time and other Support Services benefits or to pay for Support Services on an as-needed "pay-as-you-go" basis (collectively, "Support Plans"). The details of the available Support Plans are provided in Addendum C of this Agreement attached hereto and by this reference incorporated herein.
- B. Event1 shall track its billable time and offset the same against the amount of time purchased under a Support Plan. If a single event (such as a phone call or other communication) uses all of the remaining time, a grace period defined in the details of the Support Plan may apply. This is intended to allow the completion of such event before an additional charge is incurred.
- C. Event1 has no obligation to refund any monetary amount or provide credits of any type for unused time or benefits under a Support Plan at the termination of this Agreement. Unused time or benefits shall not carry forward to future agreements and shall not be applied to services outside of this Agreement.

4. Charges

- A. Customer agrees to pay for all Services delivered by Event1 in accordance with Event1's established rates and minimums in effect when Services are rendered, including then prevailing surcharges for extended hours beyond the normal hours of service as may be requested by Customer, or otherwise. Additionally, Customer agrees to reimburse Event1 for all out-of-pocket expenses incurred by Event1 in providing Services, including, without limitation, shipping costs and reasonable travel, subsistence, and lodging expenses, if any, as well as any special or unusual expenses incurred at Customer's specific request. All Support Services provided under this Agreement shall be considered billable, except in the event that the nature of the Support Case is in response to a defect in an Event1 software product.
- B. Unless Customer has purchased a Support Plan for Support Services and has unused time remaining or Event1 receives a prepaid order for Consulting Services, Event1 shall invoice Customer monthly for Services rendered in the previous month or, with regard to Consulting Services only, in accordance with any milestone payment schedule in the SOW. Invoices are due and payable in full upon receipt. Invoices not paid when due will have a one and one-half percent (1.5%) per month interest charge or the highest lawful rate, whichever is less, assessed against the unpaid balance from the date of the invoice until the date of payment. Customer shall pay all costs incurred by Event1 in collecting Customer's overdue account, including reasonable attorney's fees.
- C. All charges and rates exclude applicable sales, use, and like taxes. Customer is responsible for paying such taxes, which Event1 will include as a separate line item on each invoice.
- D. Event1's standard rates for Consulting Services are set forth in Addendum A of this Agreement attached hereto and by this reference incorporated herein. Such rates shall apply, unless specifically stated otherwise in the SOW.
- E. Event1's standard rate for Support Services, which shall apply only to customers desiring Support Services who do not sign this Agreement, is set forth in Addendum B of this Agreement attached hereto and by this reference incorporated herein. Otherwise, Customer shall pay the annual fee, if any, and hourly rate set forth in the Support Plan selected by Customer upon execution of this Agreement. If the amount of prepaid time purchased under a Support Plan has been used in full, including any applicable grace period, Event1 will charge additional time during the remainder of the term of this Agreement at the hourly rate specified in Addendum C for the Support Plan purchased.

5. Supervision

- A. While providing Services under this Agreement, if a Support Representative or Consultant is present on Customer's premises, remotely accessing Customer's computer systems, or engaged in a teleconference with Customer, Support Representative or Consultant shall within reason conform to Customer's published policies and procedures and shall abide by Customer's directions relative to personal conduct, security, and confidentiality, and in the case of Consulting Services, consistent with the SOW.
- B. It is the express intention of the parties that Event1 and its Support Representatives and Consultants are an independent contractor and not an employee, agent, or partner of Customer. Nothing in this Agreement shall be interpreted as creating the relationship of employer and employee between Event1, its Support Representatives and Consultants, on the one hand, and Customer, on the other.
- C. Should a Support Representative or Consultant be unable to perform Services because of illness, resignation, or other causes beyond Event1's control, Event1 will attempt to replace such Support Representative or Consultant within a reasonable time, but Event1 shall not be liable for failure to replace such Support Representative or Consultant within any specific time frame requested by Customer.

6. Change Orders (for Consulting Services only)

- A. If either party desires to change the scope of Services within the SOW, such party (the "requesting party") shall submit to the other party (the "receiving party") a written and signed request for such change ("Change Order"). Each Change Order shall set forth in reasonable detail the nature of the change in the Services being requested, the recommended increase or decrease in personnel or other resources, if any, and any impact the Change Order will have on the SOW schedule when implemented. The receiving party will use commercially reasonable efforts to review and respond to the Change Order within ten (10) business days after receipt thereof. The receiving party may approve, propose modifications to, or disapprove the requested Change Order. Neither party shall unreasonably disapprove a Change Order presented by the other. If the receiving party disapproves of or proposes modifications to the requested Change Order, the receiving party shall provide to the requesting party in writing, the reasons for denying or proposing modifications to the requested Change Order. If the parties fail to agree on a specific Change Order, including cost and scheduling impacts on the SOW, Event1 shall continue to provide Consulting Services at the service level provided prior to the requested Change Order. Event1 shall have the right to allocate its resources to the extent necessary to achieve the service levels required by a mutually agreed upon Change Order.
- B. Event1's assigned Consultant will analyze all Change Orders, whether originated by Customer or Event1, and generate an initial assessment as to the impact on the SOW, particularly cost and schedule impacts, within five (5) business days. Subject to the provisions of Section 6.A. above, Event1 will incorporate changes that do not affect the cost of or the schedule for providing Consulting Services within the existing SOW; where proposed changes have cost or schedule impacts on the SOW, Event1 will report the same to Customer within the ten (10) day response period set forth in Section 6.A. above.
- C. A stop work notice or a request for suspension of performance by Customer shall be considered a Change Order and treated in the manner set forth in Section 6.A. above. Any resumption of Consulting Services shall require a mutual review and written acceptance of the applicable SOW and any changes or amendments thereto.

7. Proprietary Information

- A. In order to allow Event1 to perform Services under this Agreement, Customer may, from time to time, disclose to Event1 certain information respecting Customer's technical, financial, statistical, and personnel data (collectively, "Information"). Event1 shall protect Information that Customer submits to Event1 electronically or in writing, clearly and conspicuously marked as confidential, against unauthorized disclosure with the same degree of care and discretion Event1 uses with its own or other customers' information which Event1 does not want disclosed to third parties. However, Event1 shall not be required to protect Information which (i) is or becomes publicly available, (ii) is already in Event1's or an affiliate's possession, (iii) Event1 or an affiliate independently develops outside the scope of this Agreement, or (iv) Event1 rightfully obtains from third parties.
- B. Event1 shall not be required to protect any ideas, concepts, know-how, or techniques relating to data, electronic data conversion, integration, or software development that is developed during the course of or results from Services provided under this Agreement.
- C. Certain information and materials delivered by Event1 to Customer hereunder, including, but not limited to, Components and Data (as such term is defined in Section 8 below), are confidential and proprietary trade secrets of Event1 and are furnished solely to assist Customer under each Support Case or the SOW. All such confidential and proprietary information shall be so marked and Customer shall abide by the terms of such markings and not reproduce or copy such information or disclose such information to third parties without written permission from Event1.

8. Rights In Data

Title to and ownership of all written materials first developed or created for Customer by Event1 under this Agreement, including, but not limited to, software, magnetic and optical disks, tapes, listings, and other software documentation (collectively, "Data") and all proprietary rights therein shall at all times remain with Event1; however, Event1, subject to the payment by Customer of all charges for Services, grants to Customer a personal, non-exclusive, non-transferable right to use Components and Data furnished to Customer by Event1. All other software and related documentation furnished to Customer hereunder shall be subject to a separately executed End User License Agreement. Except and to the extent expressly provided in this Section 8, Event1 does not transfer or grant any other license or right to Customer, including any license by implication, estoppel, or otherwise, under any patent, trade secret, trademark, or copyright.

9. Indemnification

- A. Event1 shall (notwithstanding anything to the contrary herein nor the expiration or termination of this Agreement) indemnify and hold harmless Customer against any and all claims, damages, liabilities, costs, and expenses, including legal expenses and reasonable counsel fees, arising out of or caused by: (i) infringement of any trademark, patent, copyright, right of privacy, publicity, name or likeness, or any other intellectual property right of another person, or misappropriation or unauthorized use or disclosure of any trade secret of another person, by Event1 or any materials or Services provided by Event1; (ii) any breach of any representation, warranty, or agreement made by Event1 herein; (iii) any defect in materials or Services provided by Event1, provided, however, that materials provided to Event1 by Customer, regardless of editing, modifications, or improvements by Event1, shall not, for purposes of this subsection (iii), be deemed materials or Services provided by Event1, unless the changes made by Event1 create the basis for a claim that otherwise would not exist; or (iv) intentional misconduct or violation of any applicable law by Event1. If the use by Customer of any part of Event1's materials or Services shall be enjoined or held to infringe any intellectual property right(s) as a result of Event1's conduct, Event1 shall substitute for that part of its materials or Services other equally satisfactory equivalents, procure the right for Customer or Customer's assignees, licensees, or transferees to continue to use such materials or Services, or, only if equally satisfactory equivalents are unavailable, shall purchase back the enjoined or infringing part of its materials or Services and refund to Customer or Customer's assignees, licensees, or transferees the sums paid for the infringing materials or Services. Customer will promptly notify Event1 in writing of any claim or litigation to which the foregoing indemnity applies. Event1 may assume the defense or settlement of any such claim or litigation and, if Event1 does so, Event1's obligations shall be limited to the amount of any judgment or settlement approved by Event1. Customer shall cooperate with Event1 in such defense and settlement. Customer may, at its own cost, retain counsel to assist in the defense of a claim, provided, however, that Event1 shall retain control thereof.
- B. Customer shall (notwithstanding anything to the contrary herein nor the expiration or termination of this Agreement) indemnify and hold harmless Event1 against any and all claims, damages, liabilities, costs, and expenses, including legal expenses and reasonable counsel fees, arising out of

or caused by any matter contained in materials provided by Customer. Event1 will promptly notify Customer in writing of any claim or litigation to which the foregoing indemnity applies. Customer may assume the defense or settlement of any such claim or litigation and, if Customer does so, Customer's obligations shall be limited to the amount of any judgment or settlement approved by Customer. Event1 shall cooperate with Customer in such defense and settlement. Event1 may, at its own cost, retain counsel to assist in the defense of a claim, provided, however, that Customer shall retain control thereof.

10. Support Representatives and Consultants

- A. The parties recognize that Event1 Support Representatives and Consultants may from time to time perform services for others similar to Services performed for Customer under this Agreement. Accordingly, this Agreement shall not prevent Event1 from performing such similar services or restrict Event1's use of the same Support Representatives(s) or Consultants provided under this Agreement. Event1 will make every effort consistent with sound business practices to honor a specific request of Customer with regard to the assignment of Support Representatives and Consultants; however, Event1 reserves the sole right to determine each such assignment.
- B. Customer and Event1 acknowledge and agree that the Support Representatives and Consultants are highly important to the success of Event1 in fulfilling the intent of this Agreement. Accordingly, Customer hereby covenants and agrees that it will not, either directly or indirectly, solicit, divert, or hire, or attempt to solicit, divert, or hire, (i) any Support Representative engaged in providing Support Services under this Agreement at any time during the term hereof and for a period of twelve (12) months thereafter, or (ii) any Consultant engaged in providing Consulting Services under this Agreement at any time a SOW is in effect and for a period of twelve (12) months following completion of Consulting Services thereunder. Furthermore, Customer agrees that should a Support Representative, Consultant, or any other Event1 employee in any way approach Customer for employment in Customer's organization, Customer shall inform said individual that Customer will not consider such employment for the period referenced above without the express written permission of Event1.
- C. The parties understand that Event1 trains its Support Representatives and Consultants with specific knowledge to conduct Services requested by Customer. Customer recognizes that the loss of any such knowledgeable and trained employee would constitute damages to Event1 that are difficult to quantify. Therefore, the parties agree that in the event of any breach of Section 10.B. above, Customer shall pay to Event1 fifty percent (50%) of the employee's then current annualized gross salary to compensate Event1 for such damages.

11. Disclaimer of Warranty

THERE ARE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AGAINST INFRINGEMENT, WITH RESPECT TO SERVICES, COMPONENTS, OR DATA FURNISHED UNDER THIS AGREEMENT. EVENT1 DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. EVENT1 DOES NOT WARRANT THE RESULT OF ANY SERVICES OR THAT SUCH SERVICES WILL MEET CUSTOMER'S REQUIREMENTS.

12. General

- A. Limitation of Liability: Except as expressly provided otherwise herein or by law, Event1 shall not be liable to Customer for any loss or damage claimed to have resulted from or in connection with the use, operation, or performance of Services rendered hereunder, regardless of the form of action. In no event shall Event1 be liable to Customer for (i) any special, indirect, incidental, or consequential damages, even if Event1 has been advised of the possibility thereof, (ii) any damages resulting from latent defects or loss of Data or profits, (iii) any claim, whether in contract or tort, that arose more than one year prior to institution of suit thereon, or (iv) any actual damages (except damages resulting from gross negligence or intentional misconduct) in excess of the fees paid by Customer for said Services.
- B. Assignment: Customer may not assign any of its rights or obligations hereunder except with Event1's prior written consent. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.
- C. Force Majeure: Dates or times by which Event1 is required to render performance under this Agreement shall be postponed automatically to the extent that Event1 is prevented from meeting them by any causes beyond its reasonable control.
- D. Choice of Law: The laws of the State of Oregon will govern the construction and operation of this Agreement and all disputes hereunder without regard to the conflicts of laws provisions thereof. Venue of any actions arising under or because of the existence of this Agreement or performance of it by the parties shall be in Multnomah County, Oregon.
- E. Severability: If any provision in this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision in this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

F. **Notices:** All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or by courier, facsimile transmission, or email, or when deposited in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed as follows:

If to Event1:

Event 1 Software, Inc.
Attention: Contracts Administration
3305 Main Street, Suite 303
Vancouver, WA 98663
Fax: 360-567-3756
Email: accounting@event1software.com

If to Customer:

Attention: _____

Telephone: _____
Fax: _____
Email: _____

Either party may change the applicable address by providing written notice in the manner set forth above.

- G. **Attorney Fees:** If any proceeding, suit, action, or claim is instituted to enforce or interpret any of the terms or conditions of this Agreement, the prevailing party shall recover from the party not prevailing, in addition to any other rights and remedies it may have, such sums as any arbitration panel or court finds reasonable as attorney fees and costs in arbitration, at trial, or on appeal. In the event of a settlement of a dispute concerning any of the terms or conditions of this Agreement, the parties shall pay attorney fees, costs, and disbursements in accordance with the provisions of the settlement agreement.
- H. **Waiver:** Failure of either party to insist, in any instance, upon strict performance by the other party of any provision of this Agreement shall not be construed or deemed to be a waiver of such or any other provision of this Agreement or limitation of the party's right to subsequently enforce and compel strict compliance with every provision of this Agreement. All rights and remedies of the parties hereto are separate and cumulative.
- I. **Amendment:** This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.
- J. **Entire Agreement:** This Agreement, together with the attached Addenda, constitutes the entire agreement of the parties and supersedes any prior written or oral agreement between the parties, and there are no other promises or conditions in any other agreement, whether written or oral, with respect to the subject matter hereof.

CUSTOMER:

By: _____
(Type or print name) Signature
Title: _____
Date: _____

EVENT 1 SOFTWARE, INC.:

By: _____
(Type or print name) Signature
Title: _____
Date: _____

For Customer Desiring Support Services – Instruction to Customer:

Identify the name of the desired Support Plan in the space below. Refer to Addendum C for the names of available Support Plans.

Name of Support Plan:

Start Date:

Addendum A
Consulting Services Rates

Service	Rate
The rate to the right shall apply to all Consulting Services (except for those Consulting Services, if any, identified separately below).	\$195.00 per hour
Excepted Services: The rate to the right shall apply to Software Development Services, which is the construction of software solutions by way of writing source code and/or utilizing software development tools.	\$295.00 per hour

Actual time spent will be rounded to the nearest 1/10th hour and multiplied by the applicable hourly rate.

Addendum B

Please Call Event 1 Software at 360-567-3752 for details.

Addendum C

Please Call Event 1 Software at 360-567-3752 for details.

Addendum D
Scope of Work Template



E V E N T 1
S O F T W A R E

Scope of Work

[Date]

[Name]

Attn: [Contact]

[Address 1]

[City State Zip]

Dear [Contact]

The purpose of this document is to communicate our understanding of the scope of our involvement for the services you have requested. This includes our rates, terms and estimated expenses. Additional information about the terms and conditions of this work is defined within the Professional Services Agreement.

Please review the information below and fax it back to us with your signature to confirm our understanding. If there are any errors in this information please communicate this to us as soon as possible.

Scope

General description	
Tasks to be performed	•
Deliverables	•
Conditions of acceptance by [Company Name]	•

Schedule

Consultant	
Scope of work	
Dates Scheduled	

Estimate

Billing Rate	See Addendum A of Services Agreement
Estimated Hours	
Estimated Billing Amount	\$

Reimbursable Expenses

None	\$0
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Cancellation

If this engagement is cancelled by your organization, you are still responsible for payment of any non-refundable expenses that have already been incurred.

Please confirm that the above information is correct by signing below and returning this document via fax to (360) 567-3756.

Accepted by *****NOT A VALID SCOPE OF WORK DOCUMENT***** Date **DATE SIGNED**