



Professional Services Terms

Last Published: October 30, 2020.

These Professional Services Terms (these “**Professional Service Terms**”) govern Beezy’s performance of Professional Services for Customer and are attached to, and made part of, that certain Proposal for Beezy Subscription Licenses and Professional Services between Beezy and Customer.

1. Definitions.

(a) “**Accepted Proposal**” means an ordering document executed by the parties that specifies, among other things, a description of the Professional Services to be provided hereunder.

(b) “**Agreement**” means the Accepted Proposal together with these Professional Service Terms, the Cloud Services Terms and any additional terms and conditions attached thereto.

(c) “**Cloud Services Terms**” means those certain Cloud Services Terms attached to, and made part of, the Agreement.

(d) “**Deliverables**” means all documents, work product, and other materials that are delivered to Customer under this Agreement or prepared by or on behalf of the Beezy in the course of performing the Professional Services, including any items identified as such in the Accepted Proposal.

(e) “**Professional Services**” means the professional services offered by Beezy to Customer as set forth in an Accepted Proposal.

2. Incorporated Terms. To the extent applicable, the following provisions of the Cloud Services Terms (and all corresponding defined terms) are hereby incorporated into, and made a part of, these Professional Service Terms, except that references to “Cloud Services” in such provisions are amended to be “Professional Services” when used herein: Fees and Payment, Confidential Information; Security, Intellectual Property Ownership; Feedback, and Miscellaneous.

3. Professional Services. Beezy will provide to Customer the Professional Services set out in one or more Accepted Proposals issued by Customer and accepted by Beezy.

4. Customer Responsibilities. Customer will:

(a) Designate one of its employees or agents to serve as its primary contact with respect to the Agreement and to act as its authorized representative with respect to matters pertaining to the Agreement (the “**Customer Contract Manager**”), with such designation to remain in force unless and until a successor Customer Contract Manager is appointed.

(b) Respond promptly to any reasonable requests from Beezy for instructions, information, or approvals required by Beezy to provide the Professional Services.

(c) Cooperate with Beezy in its performance of the Professional Services and provide access to Customer's premises, employees, contractors, and equipment as required to enable Beezy to provide the Professional Services.

(d) Take all steps necessary, including obtaining any required licenses or consents, to prevent Customer-caused delays in Beezy's provision of the Professional Services.

5. Limited Warranty and Limitation of Liability.

(a) Beezy warrants that it will perform the Professional Services:

(i) in accordance with the terms and subject to the conditions set forth in the respective Accepted Proposal and this Agreement;

(ii) using personnel of commercially reasonable skill, experience, and qualifications; and

(iii) in a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar Professional Services.

(b) Beezy's sole and exclusive liability and Customer's sole and exclusive remedy for breach of this warranty will be as follows:

(i) Beezy will use commercially reasonable efforts to promptly re-perform the affected Professional Services; provided, that if Beezy cannot successfully re-perform such Professional Services within a reasonable time (but no more than 60 days) after Customer's written notice of such breach, Customer may, at its option, terminate the portion of the Agreement relating to Professional Services by serving written notice of termination in accordance with Section 8(b).

(ii) In the event the portion of the Agreement relating to Professional Services is terminated pursuant to Section 5(b)(i) above, Beezy will within 30 days after the effective date of termination, refund to Customer any fees paid by the Customer as of the date of termination for the Professional Services not yet performed or Deliverables (as defined in Section 6 below) not yet provided.

(iii) The foregoing remedy will not be available unless Customer provides written notice of such breach within 30 days after delivery of such Professional Services or Deliverables to Customer.

(c) BEEZY MAKES NO WARRANTIES EXCEPT FOR THAT PROVIDED IN SECTION 5(a), ABOVE. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

6. Intellectual Property. All intellectual property rights, including copyrights, patents, patent disclosures, and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-

how, and other confidential information, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works, and all other rights (collectively, “**Intellectual Property Rights**”) in and to all Deliverables (except for any Confidential Information of Customer or customer materials incorporated therein) will be owned by Beezy. Beezy hereby grants Customer a license to use all Intellectual Property Rights in the Deliverables free of additional charge and on a non-exclusive, worldwide, non-transferable, non-sublicenseable, fully paid-up, royalty-free, and perpetual basis to the extent necessary to enable Customer to make reasonable use of the Deliverables and the Professional Services during the Term of the Agreement.

7. Limitation of Liability. IN NO EVENT WILL BEEZY BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE, OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT BEEZY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IN NO EVENT WILL BEEZY’S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO BEEZY FOR THE PROFESSIONAL SERVICES PURSUANT TO THE APPLICABLE ACCEPTED PROPOSAL IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

8. Term and Termination.

(a) Term. The term of these Professional Services Terms begins on the effective date for the Professional Services set forth in any applicable Accepted Proposal and will continue for the term set forth on the Accepted Proposal (or, if no term is listed, until the Professional Services are completed or these Professional Service Terms are terminated in accordance with Section 8(b)) (the “**Term**”). The parties may extend the Term upon mutual written consent.

(b) Termination.

(i) These Professional Services Terms, and the Professional Services performed hereunder, will terminate immediately upon the termination of the Agreement, unless otherwise agreed upon by the parties in writing.

(ii) Beezy may terminate these Professional Services Terms and the provision of the Professional Services, effective on written notice to Customer, if Customer fails to pay any amount when due hereunder, and such failure continues more than 30 days after Beezy’s delivery of written notice thereof.

(iii) Customer may terminate the Professional Services in whole or in part as set forth in Section 5(b)(i) hereof.

(iv) Each party may terminate these Professional Services Terms and Beezy’s provision of the Professional Services, effective on written notice to the other party, if the other party materially breaches these Professional Service Terms, and such breach: (i) is incapable of

cure; or (ii) being capable of cure, remains uncured 30 days after the non-breaching party provides the breaching party with written notice of such breach.

(v) Each party may terminate these Professional Services Terms, effective immediately upon written notice to the other party, if the other party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

(c) Effect of Expiration or Termination. Upon expiration or earlier termination of these Professional Services Terms, Customer will immediately discontinue use of any Deliverables hereunder and, without limiting Customer's obligations under Section 6 of the Cloud Services Terms (Confidential Information), Customer will delete, destroy, or return all copies of all Deliverables and certify in writing to Beezy that the Deliverables have been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle Customer to any refund.

(d) Survival. This Section 8(d) and Sections 1, 5(b), 5(c), 6, 7, and 8(c) survive any termination or expiration of these Professional Services Terms. No other provisions of these Professional Service Terms survive the expiration or earlier termination of these Professional Services Terms.