

Primary objective of SysDiva is to value and support its customers as well as subscribers wherever, whenever and however possible. SysDiva management and staff will provide the highest level of attention and dedication to all of our customers / subscribers.

In pursuit of our primary objective, SysDiva agrees to deliver the agreed services, as declared in the "Contact Agreement", to its customers at the time of purchase, subject to the following Terms of Service (hereafter referred to as ToS).

In addition, the use of SysDiva service(s) by a customer / subscribers wherever, whenever and however possible. SysDiva management and staff will provide the highest level of attention and dedication to all customers / subscriber constitutes an unconditional acceptance of an agreement to SysDiva ToS. SysDiva reserves the right to change or modify the ToS at any time without prior notice.

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### Title, Proprietary Rights, & Trade Secrets

- SysDiva's softwares and its services are trade secrets of SysDiva Consultants Pvt. Ltd. embodying substantial creative efforts, copyright-able material and confidential ideas, information and expression.
- SysDiva shall provide only the executable to the customer. The copyright, source-code plus the related system documentation would remain SysDiva property.
- The customer shall not carry out any reverse engineering of SysDiva softwares or attempt to hack into its code or otherwise use the application for development of any product/application similar in intent to SysDiva software.
- The customer shall not print, copy, reproduce, distribute, and modify the documents, software, database, technical know-how, or the information shared from time to time in whole or part thereof.

### Support Boundaries

Use of SysDiva services requires a certain level of knowledge in the use of Internet languages, protocols, software, industry, and domain. This level of knowledge varies depending on the anticipated use and expectations out of the services subscribed.

The Data Administration would remain the customer's sole responsibility SysDiva shall bear no responsibility for any damage that occurs due to power failure, accident, fire, or any other unforeseen event.

It remains the customer's responsibility to verify and use the software in all the cases. They are required to feed the necessary information within the stipulated time so as to enable the smooth implementation.

The customer is responsible for feeding the information, entering the data, uploading the contents, and providing restricted access to its respective users. Implementation and configuration services are limited to installing the software (on customer's site or on SysDiva server as specified in the contract agreement) and to provide adequate training of know-how's to use the software. However, our team of domain experts will be happy to prepare a quote to fit your specific requirements. SysDiva provides technical support for services only to its subscribers and limits the technical support to its area of expertise.

SysDiva provides support related to SysDiva features to maximize the benefits out of its services. SysDiva does not provide technical support to the customers' end-customers.

### Data Integrity

The customer / subscriber is responsible for keeping a complete and current copy of their application, data and files as a backup on a remote system (not solely on SysDiva servers). SysDiva is NOT RESPONSIBLE for any lost files, information, or data.

SysDiva makes regular internal backups of internal system configurations and databases. These backups are NOT intended for keeping backups of subscriber's application, database, or files. Although SysDiva backups may include customers' / subscribers\* sites, data, and information for disaster recovery purposes, these backups are not to be relied on by the subscriber. SysDiva does not guarantee to possess the most current copy of a subscriber's data in its own backups.

### Acceptance & Acknowledgement Norms

Final responsibility is with the customer to ensure and confirm that the software is working properly, tested for any deficiencies or errors and is working as originally intended.

If the customer does not respond with any feedback and corrections within five business days (unless pre-agreed) upon the final stage of the moving process, it will be assumed that the work is accepted and the completion of the software moving process to next stage is approved.

### Service Uptime Guarantee

The necessary precautions have been taken in testing the software and to provide the infrastructure to keep the software services continuously up & running. Customer / subscriber acknowledgement that the service provided is of such a nature that the service can be interrupted for many reasons other than the negligence of SysDiva.

The service continuity guarantee does not cover any areas where SysDiva has no direct influence, such as web-server issues, backbone provider failures, fibre-optic main line cuts, DNS or Registrar issues, routing issues between subscriber location and data centre where web server is located, etc.

The uptime guarantee is also not applicable if the service interruption was caused by external issues such as Acts of God, Wars or any other natural or unnatural events that SysDiva cannot directly influence.

### Customization Services

Based on the industry standards, software are built on the best practices and business processes, but unlikely if you still feel that customization is required then it is recommended to initiate any customization request only once the software is used by the end-users for a reasonable amount of time.

**A. Planning and Ordering Process**

The customer / subscriber should prepare a list of requirements describing the Gaps in the application. These specifications should be given to SysDiva technical team for a ball-park (rough) estimate. Principally agreeing on the estimates, a letter of intent needs to be released with a nominal token fee of 10% of the ball-park estimates.

**B. Scope Revision Process**

Once SysDiva technical team and domain analysts are engaged, the specification shall be validated with respect to its technical feasibility and for a realistic budgetary estimate. A project charter shall mutually be drafted stating the deliveries.

The process shall further advance with a contract agreement and a total payment of 50%, of the final (revised) estimation, made to SysDiva.

**C. Approval Process**

During the project development process, SysDiva may provide regular design and project updates based on the project charter. While SysDiva performs its own testing of the entire application and functionality, the final responsibility lies with the customer to ensure that the modules and the complete project has been tested for any deficiencies or errors and to confirm that the application is operating as originally intended.

It is expected that the customer responds with any feedback and corrections within the timelines specified with every update, to ensure that the project can be completed on time. If the customer does not respond within five business days (unless pre-agreed) upon delivery of the software / update, it will be assumed that the work is accepted and the completion of the project approved. Any further changes must be requested in the form of maintenance or as a separate sub-contract as applicable.

Customer is required to release the balance payment of 50% of the project value along with the delivery and approval process.

**D. Warranty & Sign-off Policy** The final delivery shall follow a one month warranty period (if not specified otherwise) to handle the teething issues that may have been left in the software during the project design or coding process.

**E. Ownership and Copyright**

Since SysDiva Cost model is based on amortizing cost of development, enhancement, and maintenance across its customers, all these customization shall be a part of the base SysDiva product and shall be propriety of SysDiva

**F. Non-disclosure of Confidential Information**

SysDiva agrees not to use any confidential Information disclosed to it by the customer for its own use or for any purpose other than to carry out discussions concerning, and the undertaking of, the moving process.

Confidential Information includes, but not limited to, login information, passwords, files, databases (including, but not limited to, products, services, and customers), web designs, configuration information, or financial information of the customer.

#### Payment

Establishment of SysDiva and its services are dependent upon receipt of payment of stated charges by SysDiva. Subsequent payments are due on the anniversary date of the month for that year's service or whichever is the selected billing cycle.

All payments shall be made in favor of SysDiva Consultants Pvt Ltd

#### Order Cancellation

A customer / subscriber may cancel his/her account and discontinue using SysDiva services at any time by intimating to SysDiva in writing. If requesting a cancellation, the customer is requested to briefly explain the reasons for doing so, as well as any suggestions on how SysDiva could improve its services. The cancellation will take effect immediately, whereas the subscriber's account will remain active until the end of the subscription or as desired by the customer / subscriber.

Account resumption is possible, in case you should re-decide. However, the resumption of services may warrant re-stating the account, the charges for which shall be at the sole discretion of SysDiva

#### Refund Policy

Refunds may only be given for an order, if the order is cancelled within 5 days after making the payment and before any work has been done, up to an extent to 75% of the payment. If the work has already begun in terms of installation & configuration process of SysDiva application, the maximum refund will be 50% of the payment. There will be no refund if the software has been configured for the customer / subscriber. If and how much of a refund will be issued depends on the amount of work already completed and is at the sole discretion of SysDiva.

In case of a Letter of Intent (LOI), the work commences with a token amount, followed by a trial usage by a pilot user group. However and in case, you wish to abort the project at this stage, the token money paid shall be adjusted towards the expenses incurred to configure the software and providing assistance for the trial usage and shall not be refunded.

#### Failure to Pay

SysDiva may temporarily deny, terminate service, or usage of the application upon the failure of the customer / subscriber to pay the charges when due. Such termination or denial will not relieve the

subscriber of responsibility for the payment of all accrued charges and any collection fees for the period when the services were discontinued.

#### System and Network Security

The customers, subscribers, or any network users are prohibited from violating or attempting to violate the security of SysDiva network or any and all components there in. Violations of system or network security may result in civil or criminal liability. SysDiva will investigate occurrences which may involve such violations and may involve and cooperate with law enforcement authorities in prosecuting subscribers who are involved in such violations.

#### Suspension of Service or Cancellation

SysDiva reserves the right to suspend the access & use of its application to any customer / subscriber, if in the judgment of SysDiva the subscriber's account is the source or target of a violation of any of the terms of the TOS, or for any other reason which SysDiva deems necessary. If inappropriate activity is detected, all accounts of the subscriber in question will be deactivated until our investigation is complete. Prior notification to the subscriber is not assured. In extreme cases, law enforcement will be contacted regarding the activity. The subscriber may not be credited for the time the subscriber's machines were suspended if the subscriber is found to be at fault. This license is effective until terminated or cancelled by either side. On termination of services, the customer is required to return all material supplied by SysDiva, either directly or through anybody else.

#### Prohibition of Adult Content

Subscribers of SysDiva services are prohibited from storing or posting adult content, or links to adult content, through the subscribed service. All material of pornographic nature is considered adult content. Online image galleries whose primary purpose is the public display of fine art or artistic mediums are not considered to be adult content.

#### SPAM and Unsolicited Commercial Email (UCE)

SysDiva takes a zero tolerance approach to the sending of Unsolicited Commercial Email (UCE) or SPAM through our network and services. Customers of SysDiva may not use, or permit others to use, our network to partake in UCE distribution. Customers of SysDiva may not host or permit hosting of sites or information that is advertised by UCE from other networks.

Upon notification of an alleged violation of our SPAM policy, SysDiva will initiate an immediate investigation. During the investigation, SysDiva may restrict customer access to the network to prevent further violations. Subscriber will thereafter be advised of the situation. If a subscriber is found to be in violation of this TOS, SysDiva may, at its sole discretion, unilaterally restrict, suspend or

terminate the violating customer's account. Further, SysDiva reserves the right to pursue civil remedies for any costs associated with the investigation of a substantiated policy violation. SysDiva will notify law enforcement officials if the violation is believed to be a criminal offense.

#### "Fair-Use" Resource Assignment

SysDiva offers high-limit or unlimited amounts of disk space and other resources, such as bandwidth transfer, database size, filing space, etc. The intention of SysDiva is to provide ample resources for customer convenience, so that customers needn't to worry about exceeding limits.

It is acknowledged by users of SysDiva services that these resource allotments are optimized and dedicated towards serving SysDiva usage and self-need information and is not to be used as offsite storage area for electronic files, or as a provisioning service for third party services. All downloadable files or files stored on the server must be available for download via a HTML document stored on the Internet in a publicly or privately accessible area, and must be directly related to the general nature of the software index. Illegal content such as pirated software, music or other media are strictly prohibited and are not allowed on SysDiva servers.

It is also acknowledged by users of SysDiva services that these resources are limited by physical restraints of technology as well as by reasonable limits of a shared resource environment. Users must realize that server technology limits the amount of available resources for use, including but not limited to disk drive space, CPU processing power, memory and access speed. SysDiva takes measures to utilize the latest and most economically feasible mass server market technology available to provide services. It is furthermore acknowledged by users of SysDiva services that all provided services are of a shared-server nature, and other users are sharing the provided space. Customer accounts are placed on a server with up to hundreds of other users. SysDiva uses this business model in order to offer Software as a Service (SaaS) at inexpensive and affordable rates.

It is further acknowledged that any single account is entitled to utilize the server resources, within reason, up to what is allotted or by what is physically available. If resources become scarce, SysDiva reserves the right to limit resources to a lower limit to preserve the effectiveness of the service for all users. If a particular user is in extreme excess of what the average users of the machine have in use (actually used) of their resource allotments, that customer may be asked to remove content, cut resource usage, or relocate to a dedicated server. This policy only applies to subscribers / communities that are considered to be abusive in service, disk space or resource consumption and where it is evident that the "fair-use" of resources among customers has been breached, particularly in regards to disk space, bandwidth or CPU processing power utilization. Additionally, the communities / subscribers that are found to contain a large number of unlinked files are subject to warning, suspension, or cancellation at the sole discretion of SysDiva.

If a "Fair-Use" breach occurs, which's determination is solely up to SysDiva subscriber may have to remove files from or reduce access to subscriber's account to an extent as determined by SysDiva in order to restore full serviceability to other subscribers affected by the breach. In any case, the subscriber will be notified of any actions that SysDiva may have to take.

#### Limited Liability

SysDiva is not liable for any damages or data loss that arise from the use of this service. SysDiva is not liable for any damages that occur from misinformation or misrepresentation by the customer which may result in a loss or corruption of data.

Neither SysDiva nor anyone else who has been involved in the design, development, production, or distribution of SysDiva software shall be liable for any direct, indirect incidental or consequential damage such as but not limited to, loss of data, loss due to business interruption, loss of business, loss of anticipated profits, loss of opportunities, or any other special or incidental loss, any claim attributable to errors, omissions, or other inaccuracies in the software, or any claim by any third party, relating to direct or indirect business of client or benefits resulting from the use of or inability to use the software. This limitation will apply even if SysDiva has been advised of, or is aware of the possibility of such damage.

Under no circumstances shall the customer hold SysDiva responsible for any loss of data or inability to properly configure business logics or workflows. All customers should have dedicated recent data backups in the event of data loss or corruption occurs.

The maximum liability of SysDiva is limited to the amount paid for by the customer for such licenses or services and shall not exceed that amount.

#### Damage Control

Client shall defend, indemnify and hold harmless SysDiva from and against all liabilities, judgments, claims, damages, settlements, expenses and costs (including reasonable attorney's fees, litigation expenses) arising out of or relating to any breach of these of service by client. Client and SysDiva will promptly notify each other upon receipt of any third party claim or legal action arising out of or relating to these terms of service.

#### Applicable Law & Jurisdiction

This Terms of Services (TOS) is subject to the governing laws of New Delhi, India. Courts of competent jurisdiction in New Delhi, India shall hear and decide any disputes.



#### Disclosure to Law Enforcement

The TOS specifically prohibits the use of our service for illegal activities. Therefore, customer / subscriber agrees that SysDiva may disclose any and all subscriber information to any law enforcement agency that requests such information, provided they possess the proper court-approved warrant, without consent or notification to the customer / subscriber.

#### Severability

If any provision of this TOS 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 of this TOS 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.

#### Indemnification

Each party (the "Indemnifying Party") hereby indemnifies the other party (the "Indemnified Party"), its officers, directors, employees and agents agree to defend and hold them harmless from and against any and all liability, damage, loss or expense (including reasonable attorney's fee) arising from any claim, demand, action or proceeding based upon the alleged breach or untruthfulness of any of the Indemnifying Party's representations or warranties, or incurred in the settlement or avoidance of any such claim, provided, however, that the Indemnified Party shall give prompt notice to the Indemnifying Party of the assertion of any such claims and provided further that Indemnifying Party shall have the right to select counsel and control the defence thereof, subject to right of the Indemnified Party to participate therein.

#### Miscellaneous Provisions

Subscriber must provide SysDiva real and current contact information at all times. E-mail address, telephone and fax contacts, and mailing address are used, and in that order of preference. SysDiva takes no responsibility for any material placed on its network by others. SysDiva is not responsible for the content of any other websites linked to. Links to other sites are provided as Internet navigation tools only. SysDiva disclaims any responsibility for any inappropriate use and any liability to any person or party for any other person or party's violation of this policy. SysDiva reserves the right to, but is not obligated to, review the content posted via the service and to refuse or remove any such materials in its sole discretion, without notice at any time. You, hereby, acknowledge that you have read this agreement, understood it and agree to be bound by its terms and conditions. You further agree that it is the complete and exclusive statement of the agreement between us relating to the subject matter of this agreement.