

LOBBYGUARD PURCHASE AGREEMENT TERMS AND CONDITIONS

1. **Purchase.** Customer agrees to purchase from LobbyGuard and LobbyGuard agrees to sell to Customer the LobbyGuard System and the modules described on the Order Form (collectively, the “System”), subject and pursuant to the terms and conditions of this Agreement. Customer may purchase additional modules for use in connection with the System by paying LobbyGuard’s then-current price for such modules. All such purchases shall be subject to the terms and conditions of this Agreement.

2. **Purchase Price and Payment.** Customer shall pay the purchase price for the System specified on the Order Form. In addition to the purchase price, Customer shall pay all transportation charges (note: Customer is a tax-exempt entity and does not pay taxes for items falling under a “governmental use”).

3. **Texas Prompt Payment Act Compliance:** Payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. An invoice shall be deemed overdue the 31st day after the later of (1) the date licensee receives the goods under the contract; (2) the date the performance of the service under the contract is completed; or (3) the date the Williamson County Auditor receives an invoice for the goods or services. Interest charges for any overdue payments shall be paid by licensee in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of licensee’s fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

4. **Delivery.** Delivery shall be made **F.O.B. Destination**. Customer shall reimburse LobbyGuard for all shipping and insurance charges. Title to the System shall pass to Customer upon payment in full to LobbyGuard for the System. All risk of loss shall pass to Customer at the point of delivery to the Customer.

5. **Support.** For a period of thirty days after the delivery of the System to Customer, LobbyGuard shall provide its then-current basic support and maintenance services to Customer free of charge. Thereafter, Customer may purchase support and maintenance services from LobbyGuard pursuant to a separate support and maintenance agreement. Customer acknowledges and agrees that in order for LobbyGuard to provide support and maintenance services, Customer must maintain a full-time broadband connection to the Internet.

6. **License.** The System includes software and accompanying documentation (“Licensed Materials”). “Licensed Materials” includes any updates and enhancements that may be provided to Customer by LobbyGuard. LobbyGuard grants to Customer a nonexclusive license to use the Licensed Materials in connection with Customer’s use of the hardware portion of the System. Customer shall not modify, reverse engineer, decompile, disassemble, create derivate works based on, sublicense, or distribute the Licensed Materials or the accompanying documentation. Customer may transfer the Licensed Materials to another end user on a permanent basis solely in connection with and as part of the transfer of the System hardware, provided that the end user receives a copy of these Terms and Conditions, and agrees to be bound by its terms and conditions. In no event shall the Licensed Materials be transferred to a third party separate from the hardware portion of the System.

7. Compliance with Laws. Customer acknowledges that certain federal, state, and local laws, statutes, rules and regulations may be applicable to its use of the System and its use by Customer, and that LobbyGuard has no responsibility for informing Customer of any such laws, statutes rules or regulations. Customer shall comply with all such laws, statutes, rules and regulations. To the extent authorized under Texas law, customer will indemnify and hold harmless LobbyGuard and its resellers from any and all claims, costs and expenses arising out of or related to such claims.

8. Warranties. LobbyGuard warrants that for a period of 12 months after the delivery of the System to Customer (the "Warranty Period"), the software and hardware included in the Licensed Materials shall, in all material respects, operate in conformance with the System's documentation provided to Customer. In the event of a breach of the foregoing warranty, as Customer's sole and exclusive remedy, Customer may return the System within the Warranty Period and shall receive commercially acceptable warranty repair to the system. Customer is responsible for packaging and return shipping charges to LobbyGuard. LobbyGuard agrees to pay for shipment of repaired system back to customer. The LobbyGuard Kiosk PC is warranted for a period of 3 years from date of delivery to customer. This warranty covers only the internal PC and provides overnight replacement of PC with shipping charges and packaging charges paid by LobbyGuard. All warranty claims must be submitted to and approved by LobbyGuard technical support staff.

9. DISCLAIMER OF WARRANTIES. EXCEPT FOR THE FOREGOING WARRANTY, THERE ARE NO OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SYSTEM, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR AGAINST INFRINGEMENT, OR ANY EXPRESS OR IMPLIED WARRANTY ARISING OUT OF TRADE USAGE OR OUT OF A COURSE OF DEALING OR COURSE OF PERFORMANCE. LobbyGuard DOES NOT AND CANNOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE PERFORMANCE, USE OR RESULTS OF THE USE OF THE SYSTEM IN TERMS OF EFFECTIVENESS, ACCURACY, RELIABILITY, THAT CUSTOMER WILL BE SECURE AS A RESULT OF ITS USE OF THE SYSTEM, OR OTHERWISE.

10. LIMITATION OF LIABILITY. LOBBYGUARD SHALL NOT BE LIABLE TO CUSTOMER FOR ANY INCIDENTAL, SPECIAL, INDIRECT, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY CHARACTER RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, DAMAGES FOR: LOSS OF BUSINESS OR GOOD WILL, WORK STOPPAGE, LOSS OF INFORMATION OR DATA, LOSS OF REVENUE OR PROFIT, OR COMPUTER FAILURE, FINANCIAL LOSS ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE SYSTEM, PERFORMANCE OR FAILURE OF THE SYSTEM, REGARDLESS OF THE LEGAL THEORY ASSERTED, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, EVEN IF LOBBYGUARD HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IF A REMEDY SET FORTH HEREIN IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. LOBBYGUARD'S AGGREGATE LIABILITY TO CUSTOMER UNDER THIS AGREEMENT, REGARDLESS OF THE LEGAL THEORY OF ANY CLAIM, SHALL NOT EXCEED THE AMOUNT CUSTOMER ACTUALLY PAID FOR THE SYSTEM.

11. Background Checks. If Customer's System or any add-on modules include the ability to perform "background checks" on individuals, the following provisions shall apply. Background checks performed using the System are based on information gathered from publicly available databases. Such information has not been screened for accuracy, completeness or timeliness, and should not be relied upon as a substitute for personal investigation. Customer understands and agrees that positive or false matches in background checks may not provide confirmation of an individual's background; background

checks may return false-positive matches, where the database incorrectly returns a record containing a negative background for an individual who does not have a negative background, and false-negative matches, where the database does not return a record of a negative background for an individual who does have a negative background. Customer shall not use the System's background check functionality for any purpose other than to deny or permit access to Customer's premises. Use of such background check functionality is at Customer's own risk, and LobbyGuard shall not be liable for any damages that result from such use.

12. Termination. LobbyGuard shall have the right to terminate this Agreement upon five (5) days' written notice in the event that Customer violates any material provision of this Agreement and such violation, if curable, is not cured within such five (5) day period. Within five (5) days after termination of this Agreement, Customer shall return the System to LobbyGuard. Sections 2, 5, 7, 8, 9, 10, 11 and 12 shall survive the termination of this Agreement.

13. Termination for Convenience. This agreement may be terminated at any time at the option of either party, without future or prospective liability for performance upon giving thirty (30) days written notice thereof. In the event of termination, Customer will only be liable for its pro rata share of services rendered and goods actually received.

14. Mediation: The parties agree to use mediation for dispute resolution prior to and formal legal action being taken on this Contract.

15. Right to Audit: LobbyGuard agrees that licensee or its duly authorized representatives shall, until the expiration of three (3) years after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers and records of LobbyGuard which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. LobbyGuard agrees that licensee shall have access during normal working hours to all necessary LobbyGuard facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. licensee shall give LobbyGuard reasonable advance notice of intended audits.

16. General.

(a) Governing Law and Venue. Venue of this contract shall be Williamson County, Texas, and the law of the State of Texas shall govern.

(b) Independent Contractors. Nothing contained herein shall be construed to imply a joint venture or principal-agent relationship between the parties, and neither party will have any right, power, or authority to create any obligation, express or implied, on behalf of the other in connection with performance of its obligations hereunder.

(c) Severability; Waiver. If any provision of this Agreement is held to be invalid or unenforceable for any reason by a court of competent jurisdiction, the remaining provisions will continue in full force without being impaired or invalidated in any way. The failure of either party to insist upon strict performance of any provision of this Agreement, or to exercise any right provided for herein, shall not be deemed to be a waiver of the future enforcement of such provision or right, and no waiver of any provision or right shall affect the right of the waiving party to enforce any other provision or right herein.

(d) Notices. Any notice or communication permitted or required hereunder will be in writing and will be delivered by facsimile transmission with confirmation of receipt, in person or by courier, or mailed by certified or registered mail, postage prepaid, return receipt requested, and addressed as set forth in the Order Form or address as either party may provide from time to time to the other. If notice is given in person, by courier, or by facsimile, it will be effective upon receipt; and if notice is given by mail, it will be effective three (3) business days after deposit in the mail.

(e) Force Majeure. If performance of this Agreement, or any obligation hereunder (other than the obligation to pay) is prevented, restricted, or interfered with by any act or condition whatsoever beyond the reasonable control of the affected party (including without limitation the failure of any suppliers to perform), the party so affected, upon giving prompt notice to the non-affected party, will be excused from such performance to the extent of such prevention, restriction, or interference.

(f) Assignment. No right or obligation of Customer under this Agreement will be assigned, delegated, or otherwise transferred, whether by agreement, operation of law, or otherwise, without the express prior written consent of LobbyGuard. Any purported assignment, delegation, or transfer in violation of this paragraph will be null and void. Subject to the foregoing, this Agreement in its entirety will bind each party and its permitted successors and assigns.

(g) Amendments. Any amendments, modifications, supplements, or other changes to this Agreement must be in writing and signed by duly authorized representatives of each party.

(h) Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous representations, understandings, agreements, communications, or purchase orders between the parties, whether written or oral, relating to the subject matter hereof.

(i) No Waiver of Sovereign Immunity or Powers: Nothing in this agreement will be deemed to constitute a waiver of sovereign immunity or powers of licensee, the Williamson County Commissioners Court, or the Williamson County Judge.

WITNESS the signatures of all parties in duplicate originals this the ____ day of __, 2017.

WILLIAMSON COUNTY:

LOBBYGUARD:

Authorized Signature

Brian Allen

Authorized Signature

LobbyGuard Solutions LLC

866-905-6229

LOBBYGUARD®
Sign In. Sign Out. Secure.