



# ***NBR Computer Consulting, LLC***

## **Internet Services Customer Agreement**

**Internet:** www.NBRconsulting.com  
**E-mail:** info@NBRconsulting.com  
513 Highland Street South  
Arlington, VA 22204  
(703) 486-1212  
**FAX:** (703) 486-1213

This Agreement effective this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ is made by and between NBR Computing Consulting, LLC, a limited liability company organized under the laws of the Commonwealth of Virginia (the "Company"), with its principal place of business for purpose of this Agreement located at 513 Highland Street South, Arlington, VA 22204-2092, U.S.A., and the customer listed on Attachment A hereto (the "Customer"). In consideration of the mutual covenants herein, the parties agree to the following, which shall apply during the term of this Agreement:

### **1. SERVICES**

- A. The Company shall provide the services listed on Attachment A to the Customer.
- B. The Customer acknowledges that the Company uses the services of a recognized internet service provider for all internet related services the Company offers.

### **2. PRICES**

- A. All prices for services provided by the Company to the Customer are in US dollars. The Customer agrees to pay the amount listed on Attachment C prior to any services being provided by the Company to the Customer.
- B. The Customer shall be responsible for paying all taxes of any nature which become due with regard to the Company's services, except for taxes on the Company's income, irrespective of which party may be responsible for reporting or collecting such taxes.

### **3. ORDER ACCEPTANCE, PAYMENT**

- A. All orders for services are subject to acceptance by the Company. An order will be deemed accepted by the Company when written confirmation of the order is sent to the Customer. The Company may refuse to accept any order, or delay acceptance pending fulfillment of conditions the Company may choose to impose. The Company agrees to provide Customer with reasonable notice via E-mail or facsimile of any intent to delay or decline the acceptance of any order.
- B. Payment and Terms: Payment shall be made in US dollars to the Company, or as may otherwise be agreed upon in writing by the parties. Payments are due upon presentation of invoice and all amounts are deemed earned as of this time. If due to bank charges, transfer fees, or the like, the Company should receive less than its invoice amount, the Company will re-invoice the Customer for the shortfall. Should payment in full of any invoice (aside from such shortfalls) not be received by the Company within thirty (30) days after presentation, the Company will impose a debt service charge amounting to one percent (1%) of the overdue balance for each month or fraction thereof the overdue amount remains unpaid (or such less amount as permitted by law). In the event that any amount remains unpaid forty-five (45) days after presentation of invoice, the Company may discontinue, withhold, or suspend services to the Customer.

### **4. DUTIES OF THE COMPANY**

The Company will acquire, on request, an Internet Domain Name (only from the US InterNIC) on behalf of the Customer. In such case the Customer hereby waives any and all claims which it may have against the Company for any loss, damage, claim or expense arising out of, or in relation to, the registration of such Domain Name in any on-line or off-line network directories, membership lists, or registration lists, or the release of the Domain Name from such directories or lists following the termination of services by the Company for any reason. Any costs of the Company in obtaining or maintaining a domain name for the Customer shall be immediately reimbursed to the Company upon invoice from the Company to the Customer.

### **5. RULES AND REGULATIONS**

The Company may impose reasonable rules and regulations regarding the use of its services from time to time and may change the rules and regulations effective upon giving notice to the Customer. The current rules and regulations for use are set forth on Attachment B hereto.

## 6. LIMITATION OF THE COMPANY'S OBLIGATIONS AND LIABILITY

- A. The Company will utilize reasonable efforts to maintain acceptable performance of contracted for services, but the Company makes absolutely no warranties whatsoever, express or implied, including warranty of merchantability or fitness for a particular purpose. The Company cannot guarantee continuous service, service at any particular time, or integrity of data stored or transmitted via its system or the system of the Company's internet service provider, or via the Internet. The Company will not be liable for the inadvertent disclosure of, or corruption or erasure of, data transmitted or received or stored on its system or the system of the Company's internet service provider. The Company shall not be liable to the Customer for any claims or damages which may be suffered by the Customer, including, but not limited to, losses or damages of any and every nature, resulting from the loss of data, inability to access Internet, or inability to transmit or receive information, caused by, or resulting from, delays, nondeliveries, or service interruptions whether or not caused by the fault or negligence of the Company.
- B. The Company may discontinue servicing the Customer's account, or may require fulfillment of conditions the Company may choose to impose as a prerequisite for continuing to service the Customer's account. The Company agrees to provide Customer with reasonable notice via E-mail or facsimile of any such intent to discontinue or impose conditions.
- C. Services provided by the Company to Customer shall be deemed accepted for all purposes fifteen (15) days after presentation of invoice for such services, if no written claim or objection regarding such services has been received by the Company within the 15-day period. No claim related to such accepted services shall be raised. All payments received by the Company for services performed or to be performed shall be considered earned as of the date of payment and the Company has no obligation to issue refund, whether pro rata or otherwise.
- D. The Company's liability to Customer is limited to the amount paid to and received by the Company for services not accepted. In no event shall the Company be liable to the Customer, or any end user or any other entity for any special, consequential, or other damages, however caused, whether for breach of contract, negligence, or otherwise, even if the Company has been advised of the possibility of such damage.
- E. The Customer will take all necessary measures to preclude the Company or its agents, representatives, or service providers, from being made a party to any lawsuit or claim regarding the services provided to the Customer. Customer hereby agrees to indemnify and hold harmless the Company, its agents, representatives, and service providers from any and all claims of whatever nature brought by any of the Customer's customers against the Company or its agents, representatives, or service providers in excess of the remedy set forth in paragraph 6(D).
- F. The Customer shall indemnify, defend, save, and hold the Company, its officers, directors, and affiliates, and the heirs, successors, and assigns thereof, harmless from any and all actions, investigations, claims, losses, damages, and other costs and expenses (including, without limitation, attorney's fees and costs) arising out of or relating to the Services to be provided under this Agreement and/or any breach of the rules and regulations for use by the Customer.

## 7. PROPERTY RIGHTS

The Company owns all right, title and interest in, or has the right to use, the Company's trademarks, trade names, service marks, inventions, copyrights, trade secrets, patents, and know-how relating to the services to be provided to the Customer and of the hardware and software systems and resources necessary to provide the individual service elements of which they consist. This Agreement does not constitute a license to the Customer to use the Company's trademarks, trade names, service marks, or other intellectual or similar property.

## 8. CONFIDENTIALITY

Customer acknowledges that by reason of its relationship with the Company hereunder, it may have access to certain information and materials relating to the Company's business, plans, customers, software technology, and marketing strategies that is confidential and of substantial value to the Company, which value would be impaired if such information were disclosed to third parties. Customer agrees that it will not use in any way for its own account, nor for the account of any third party, nor disclose to any third party, any such information revealed to it by the Company. The Customer further agrees that it will take every reasonable precaution to protect the confidentiality of such information. In the event of termination of this Agreement, there shall be no use or disclosure by the Customer of any such confidential information in its possession, and all confidential materials shall be returned to the Company or destroyed. The provisions of this section shall survive the termination of the Agreement for any reason. Upon any breach or threatened breach of this section, the Company shall be entitled to injunctive relief, which relief shall not be contested by Customer.

## 9. RELATIONSHIP OF THE PARTIES

The relationship between the Company and the Customer is that of vendor and vendee. They shall not be construed as being joint ventures, franchiser/franchisee, or employer/employee. This Agreement is a commercial agreement between businesses, not a consumer agreement. The Customer has no authority, apparent or otherwise, to contract for or on behalf of the Company, or in any other way legally bind the Company in any fashion.

## 10. DISPUTES

The parties shall attempt to resolve all disputes arising out of this Agreement in a spirit of cooperation without formal proceedings. Any dispute which cannot be so resolved (other than the collection of money due on unpaid invoices) and other than the injunctive relief referred to in paragraph 8 shall be subject to arbitration upon written demand of either party. Arbitration shall take place in Alexandria, Virginia, or at another location if the parties so agree. The arbitration shall take place before an arbitration panel chosen as follows: The parties shall each choose an arbitrator, and the two arbitrators shall choose a third arbitrator and determine the third arbitrator's compensation. Each party shall have one veto over the choice of the third arbitrator. The three arbitrators shall schedule an informal proceeding, hear the arguments, and decide the matter by secret majority vote. Unless the arbitrators decide otherwise, each party shall pay the costs of its own arbitrator, and shall pay half of the other costs of the arbitration proceeding. Each party shall have the right to have the proceedings transcribed. The arbitrators shall not have the authority to award punitive damages or any other form of relief not contemplated in the contract. The majority of arbitrators shall render a written opinion setting forth the basis on which they arrived at the decision regarding each issue submitted to arbitration; the dissenting arbitrator, if any, shall not issue a dissenting opinion. Regarding each issue submitted to arbitration, the decision shall be final and binding only to the extent it is accompanied by a written explanation of the basis upon which it was arrived at. Judgment upon the award, if any, rendered by the arbitrators may be entered in any court having jurisdiction thereof.

Should any legal action permissible under this Agreement be instituted to enforce the terms and conditions of this Agreement, in particular the right to collect money due on unpaid invoices, the prevailing party shall be entitled to recover reasonable attorney's fees and expenses.

## 11. TERM, TERMINATION

This Agreement shall run until the end of Term set forth on Attachment A, unless sooner terminated in accordance with this Section. It shall automatically be renewed for consecutive terms equal to the original term (or such different Term for which renewal payment is made, provided however, that lack of payment shall not be deemed a termination of this Agreement by the Customer), unless terminated in one of the following ways:

- A. By either party, by notifying the other in writing at least thirty (30) days prior to the end of the current Term that this Agreement will not be renewed.
- B. By the Company, upon twenty (25) days written notice, if the Customer breaches any material and substantial provision of this Agreement and has not cured by the end of the 25 days.
- C. By the Company, immediately upon giving written notice to Customer, in the event that
  1. Any bank draft or check delivered by the Customer to the Company in payment for services is returned unpaid and the Customer fails to remedy such nonpayment within three business days;
  2. The Customer becomes more than fifty-five (55) days in arrears in payment of its account with the Company;
  3. There are instituted bankruptcy or insolvency proceedings against the Customer, which are not vacated within sixty (60) days from the date of filing;
  4. The Customer institutes voluntary bankruptcy or insolvency proceedings, or otherwise admits insolvency; or
  5. The Customer makes an assignment of all or part of its assets for the benefit of creditors.
- D. By the Company immediately, if the Customer attempts to assign all or any part of this Agreement without the Company's prior written approval;
- E. By the Company immediately, if the Customer fails to cause the Company to be informed in writing immediately on the happening of any event specified in this section;
- F. By the Customer, immediately upon giving written notice to the Company, if
  1. There are instituted bankruptcy or insolvency proceedings against the Company, which are not vacated within sixty (60) days from the date of filing;
  2. The Company institutes voluntary bankruptcy or insolvency proceedings, or otherwise admits insolvency;
  3. The Company makes an assignment of all or part of its assets for the benefit of creditors; or

4. The Company fails to cause the Customer to be informed in writing immediately on the happening of any event specified in this section.

**12. NONASSIGNABILITY**

The Customer's rights and obligations under this Agreement may not be transferred or assigned directly or indirectly without the prior written consent of the Company.

**13. PARTIAL INVALIDITY**

If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, then the remaining provisions shall nevertheless remain in full force and effect. The Company and the Customer agree to renegotiate in good faith any term held invalid and to be bound by mutually agreed upon substitute provisions.

**14. APPLICABLE LAW, JURISDICTIONAL MATTERS**

This Agreement takes effect when accepted by the Company in Virginia. It is to be governed by and construed under the laws of the Commonwealth of Virginia and the United States of America. The federal and state courts of the Commonwealth of Virginia shall have exclusive jurisdiction to adjudicate any non-arbitrable dispute arising out of this Agreement. The Customer hereby expressly consents to (1) the jurisdiction of the courts of Virginia and (2) service of process being effective upon it by registered mail sent to the address set forth at the beginning of this document, as may be changed from time to time by written notice actually received by the Company. To the extent permissible by the law of the Customer's jurisdiction, the Customer waives any requirement that service of process or of any documents be made upon it pursuant to the provisions of the Hague Convention.

**15. NOTICES**

Except with respect to service of process as set forth in paragraph 14, all notices may be sent by E-mail, facsimile, or express mail to the email address, fax number, or address most recently provided and will be effective upon transmission. Evidence of successful transmission shall be retained. Notice shall be deemed given when sent by the Company or when actually received by the authorized representative of the Company.

**16. ENTIRE AGREEMENT; MODIFICATIONS**

This Agreement sets forth the entire Agreement and understanding between the parties and merges all prior discussion between them. The Company may make changes to this Agreement upon twenty-five (25) days written notice to the Customer, advising of the change and the effective date thereof. Utilization of the Company's services by the Customer following the effective date of such change shall constitute acceptance by the Customer of such change(s). Otherwise, this Agreement may not be modified except by the written consent of both parties.

IN WITNESS WHEREOF, the Customer, intending to be legally bound hereby, and in consideration of the covenants and agreements contained herein, does hereby execute this Agreement, warranting the Customer's ability to enter into this Agreement for the person or entity herein named as the Customer hereto and acknowledging that the Customer has read and agreed to be bound by the Rules and Regulations Regarding Use in Attachment B, and the Plan Descriptions in Attachment C.

**CUSTOMER**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Business Name (if any)