

Services

The YourNET Connection services ("Services") support Customer owned server hardware and software applications. YourNET Connection provides a secure, controlled data center ("YourNET Connection facility(s)") for such hardware and software applications. The Services related to YourNET Connection Co-location include space within a YourNET Connection facility, bandwidth options, backup options, load balancing options, application, management and reporting options. Customer's order shall identify the specific services Customer is purchasing.

Fees

Customer shall pay YourNET Connection all fees, including one time set up charges, monthly fees, and usage fees, indicated on a sales order. Customer acknowledges that in consideration of pricing set forth on the order, Customer commits to be liable for and pay the monthly fees set forth in an Order for the term indicated in such order.

All payments shall be made in United States dollars, at YourNET Connection's address as indicated in this Agreement or at such other address as YourNET Connection may from time to time indicate by proper notice hereunder. All invoices are due and payable on or before the "due date" specified on each invoice. Interest shall be payable at the rate of one and one half percent (1.5%) per month or at the maximum rate permitted by law, whichever is less, on all overdue and unpaid invoices until paid in full. YourNET Connection reserves the right, based on credit checks, to require prepayments to services ordered.

Term

The term of this Agreement shall commence on the on the date of its execution by Customer and continue as indicated on the order, and provided further, that with regard to any orders then outstanding, this Agreement shall continue to govern such orders until such orders have been fully performed or terminated. Each order shall have a minimum period of 12 months, and so long as this Agreement remains in effect, shall be automatically renewed at the then current fees for additional periods, unless either party gives written notice otherwise to the other party, not less than thirty (30) days prior to the expiration of such order. Orders may only be issued while this Agreement is in effect. This Agreement may be renewed for additional terms upon the mutual written consent of both parties.

Termination

Either party may terminate this Agreement or any order upon written notice: (a) for any material breach of this Agreement or any order which the defaulting party fails to cure within thirty (30) days following written notice by the non-defaulting party of such breach; or (b) upon either parties insolvency or liquidation as a result of which either party ceases to do business. Customer shall comply with all applicable procedures related to equipment removal upon termination. In the event of any expiration or earlier termination of this Agreement or any order, Customer will be obligated to pay to YourNET Connection fees and charges incurred prior to termination, and, if such termination is not the result of YourNET Connection's default, the payment of any waived or discounted installation fees, as well as

the monthly fees for each remaining month of the term of the affected order(s). In addition, if Customer fails to pay any invoice(s) for thirty (30) days or more from the date of such invoice, Customer shall be denied access to the facility (as defined below) until such time as the invoice(s) has been paid in full.

Facilities

For purposes of this Agreement, "Space" means the YourNET Connection facility(s) where Customer's hardware and software are stored and operated. YourNET Connection grants to Customer a non-exclusive license to occupy the space. Customer acknowledges that it has been granted only a license to occupy the space and that it has not been granted any real property interests in the space.

Exclusions

Services shall not include services for problems arising out of: (a) modification, alteration or addition or attempted modification, alteration or addition of hardware undertaken by persons other than YourNET Connection or YourNET Connection's authorized representatives; or (b) hardware supplied by Customer.

Damage

Customer agrees to reimburse YourNET Connection for all reasonable repair or restoration costs associated with damage or destruction caused by Customer's personnel, Customer's agents, Customer's suppliers/contractors, or Customer's visitors during the term or as a consequence of Customer's removal of its hardware or property installed in the space.

Insurance

Unless otherwise agreed, Customer shall maintain, at Customer's expense, (i) Comprehensive General Liability Insurance in an amount not less than one million dollars (\$1,000,000) per occurrence for bodily injury or property damage; (ii) Employer's Liability in an amount not less than one million dollars (\$1,000,000) per occurrence, (iii) Worker's Compensation in an amount not less than that prescribed by statutory limits and (iv) Property Insurance on an "all risk" form covering equipment and personal property owned or leased by Customer and used or stored on YourNET Connection's premises. Such Comprehensive General Liability Insurance shall have an additional insured endorsement naming YourNET Connection, and shall be primary and non-contributing with any insurance policies carried by YourNET Connection. Customer shall also maintain insurance covering the equipment or property owned or leased by Customer against loss or physical damage. If so requested, Customer will provide YourNET Connection written evidence of insurance coverage consistent with the requirements of this subsection.

Customer Duties

Customer shall document and promptly report all errors or malfunctions of the hardware to YourNET Connection. Customer is responsible for the provisioning of all necessary spare parts and/or other hardware to maintain its servers. Customer shall maintain a current backup copy of all programs and data.

Regulations

Customer shall comply with all applicable operational rules and regulations, while on YourNET Connection's premises and while under YourNET Connection escort. YourNET Connection may, in its sole discretion, limit Customer's access to a reasonable number of

authorized Customer employees or designees. Customer shall not interfere with any other customers of YourNET Connection, or such other customers' use of a YourNET Connection facility(s).

Assumption of Risk

Customer hereby assumes any and all risks associated with Customer, its agents (including contractors and sub-contractors) or employees' use of the space and shall indemnify, defend and hold harmless YourNET Connection from any and all claims, liabilities, judgments, causes of action, damages, costs, and expenses (including reasonable attorneys' and experts' fees), caused by or arising in connection with such use.

Software license

All third party provided software is licensed to Customer subject to the terms and conditions of an end user license agreement ("EULA") provided as either a document accompanying such software, or as a pop-up screen during initial use of such software. Customer hereby accepts and agrees to abide by the terms and conditions of the EULA associated with any third party software provided to Customer with any of the Services.

Representations And Warranties

Each party represents and warrants that it has the right and authority to enter into this Agreement, and that by entering into this Agreement, it will not violate, conflict with or result in a material default under any other contract, agreement, indenture, decree, judgment, undertaking, conveyance, lien or encumbrance to which it is a party or by which it or any of its property is or may become subject or bound. Each party shall not grant any rights under any future agreement, nor will it permit or suffer any lien, obligation or encumbrances that would prevent it from performing under this Agreement.

Customer represents and warrants that it will, at its own expense, make, obtain, and maintain in force at all times during the term of this Agreement, all applicable filings, registrations, reports, licenses, permits and authorizations in order for Customer to perform its obligations under this Agreement. YourNET Connection represents and warrants that it will, at its own expense, make, obtain, and maintain in force at all times during the term of this Agreement, all applicable filings, registrations, reports, licenses, permits and authorizations in order for YourNET Connection to provide the Services, and to perform its obligations under this Agreement.

Both parties represent and warrant that they will, at their own expense comply with all laws, regulations and other legal requirements that apply to them with respect to this Agreement, including copyright, privacy and communications decency laws, advise each other of any legislation, rule, regulation or other law which is in effect or which may come into effect after the Effective Date which has a material effect on any provision of this Agreement. Both parties represent and warrant that no consent, approval or authorization of or designation, declaration or filing with any governmental authority is required in connection with the valid execution, delivery and performance of this Agreement.

Customer represents and warrants that it will: (a) not utilize (or allow utilization of) the Services in a manner that: (i) is prohibited by any law or regulation or YourNET Connection policy, or to facilitate the violation of any law or regulation or such policy; or (ii) will disrupt third parties' use or enjoyment of any

communications service or outlet; (b) not violate or tamper with the security of any YourNET Connection computer equipment or program; and (c) have an agreement with each Customer end user sufficient to comply with the terms herein.

THE WARRANTIES SET FORTH IN THIS SECTION ARE THE ONLY WARRANTIES MADE BY YourNET Connection. YOURNET CONNECTION MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ITS SERVICES, ANY RELATED SERVICE OR SOFTWARE, OR THE FITNESS OF THE SPACE FOR CUSTOMER'S USE. YOURNET CONNECTION HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, OR IMPLIED WARRANTIES ARISING FROM A COURSE OF DEALING OR COURSE OF PERFORMANCE. NO ORAL OR WRITTEN INFORMATION GIVEN BY YOURNET CONNECTION, ITS EMPLOYEES, LICENSORS OR THE LIKE WILL CREATE A WARRANTY.

Limitation Of Liability

In no event shall YourNET Connection be liable for special, incidental, consequential damages of any nature, for any reason, including without limitation the breach of this Agreement or any termination of this Agreement, whether such liability is asserted on the basis of contract, tort (including negligence or strict liability) or otherwise, even if YourNET Connection has been warned of the possibility of such damages, and notwithstanding any failure of essential purpose of any limited remedy. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, YOURNET CONNECTION'S ENTIRE LIABILITY TO CUSTOMER CONCERNING PERFORMANCE OR NONPERFORMANCE BY YOURNET CONNECTION OR IN ANY WAY RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, AND REGARDLESS OF WHETHER A CLAIM IS BASED IN CONTRACT, NEGLIGENCE OR IN TORT, SHALL NOT EXCEED THE AMOUNT RECEIVED BY YOURNET CONNECTION FROM CUSTOMER DURING THE PREVIOUS TWELVE (12) MONTHS.

Network Abuse

Customer acknowledges that Customer has read and understands, and agrees to comply with, all applicable provisions of, YourNET Connection's then current Acceptable Use Policy, incorporated herein by this reference.

Customer expressly agrees that YourNET Connection shall not be liable to Customer for any action YourNET Connection takes to remove or restrict access to obscene, indecent or offensive content made available by Customer, nor for any action taken to restrict access to material made available in violation of any law, regulation or rights of a third party, including but not limited to, rights under the copyright law and prohibitions on libel, slander and invasion of privacy.

Upon written or electronic request of YourNET Connection, Customer agrees to defend, indemnify and hold harmless YourNET Connection, its affiliates, its officers, directors, employees, agents and licensees, from any claims, liabilities, losses, damages and expenses, including reasonable attorneys fees, arising out of or relating to Customer's or its end users' use of any of the Services provided hereunder.

On-Assignment

This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. Notwithstanding the above, this Agreement may not be assigned in

whole or in part by a party, without the written consent of the other party, which shall not be unreasonably withheld, provided, however, that this Agreement may be assigned to the successor to the whole of a party's business without such consent. Any assignment in violation of this paragraph shall be null and void.

Independent Contractors

The parties are independent contractors, and nothing in this Agreement shall be deemed to place the parties in the relationship of employer-employee, principal-agent, or partners.

Severability

If any provision of this Agreement is held to be invalid, illegal, or unenforceable under present or future laws, such item shall be struck from the Agreement; however, such invalidity or enforceability shall not affect the remaining provisions or conditions of this Agreement. The parties shall remain legally bound by the remaining terms of this Agreement, and shall strive to reform the Agreement in a manner consistent with the original intent of the parties.

Force Majeure

Except for the obligation to make payments, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the actions or inactions of YNC), provided that the delayed party: (a) gives the other party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If YNC is unable to provide Service(s) for a period of thirty (30) consecutive days as a result of a continuing force majeure event, Customer may cancel the Service(s).

Governing Law

This Agreement shall be deemed to have been made in the State of Illinois, and the provisions and conditions of this Agreement shall be governed by and interpreted in accordance with the substantive laws of the State of Illinois, without regard to conflict of law provisions.

Arbitration

Any dispute or claim arising out of or in connection with this Agreement or the performance, breach or termination hereof, shall be finally settled by binding arbitration conducted in the state of Illinois, under the Rules of Arbitration of the American Arbitration Association by an arbitrator appointed in accordance with those rules. Judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, either party may apply to any court of competent jurisdiction for injunctive relief without breach of this arbitration provision.

Integration

This Agreement expresses the complete and final understanding of the parties with respect to the subject matter hereof, and supersedes all prior communications between the parties, whether written or oral with respect to the subject matter hereof. No modification of this Agreement shall be binding upon the parties hereto, unless evidenced by a writing duly signed by authorized representatives of the respective parties hereto.

Notices

Any required notices hereunder shall be given in writing by certified mail or overnight express delivery service (such as Federal Express) at the address of each party below, or to such other address as either party may from time to time substitute by written notice. Notice shall be deemed served when delivered or, if delivery is not accomplished by reason or some fault of the addressee, when tendered.
