

## N-Sync, Inc. Support Services Terms and Conditions

(Legal Disclaimer)

Although we at N-Sync, Inc. Take great pride in the quality of service and rapport we have established and delivered to our customers throughout our history, the ultimate responsibility for any system belongs with those directly charged by the controlling entity with maintaining it. Our role is to provide support, guidance, direction, and assistance when and where desired. Due to the nature of the materials involved and the multitude of influences both direct and indirect that can cause issues, we can not provide guarantees. We will ALWAYS make our best efforts to deliver positive outcomes and avoid negative occurrences. However, the final responsibility lies with you, the customer. For that reason, and despite the fact that we have never had an incident that invoked these concerns, we issue the following disclaimer which governs ALL N-Sync, Inc. Related activities.

### *Disclaimer and Limitation of Liability*

Requesting, Considering, Using or Accessing any Service(s) and/or Implementing, Installing, or in any way acting upon or with advice, suggestions, proposals, information, software, hardware, and/or any materials acquired or received from N-Sync, Inc. is done so at your own risk and under your own responsibility and authority. N-Sync, Inc. is in no way responsible or liable for any damage, loss of data regardless of where it is located or stored or how it is accessed, loss of materials, loss of money, or any negative or undesirable out comes or results of any kind, and is to be held completely harmless in all instances. AS appropriate, it is the customer's responsibility to maintain their own independent security and recovery methodologies and to supervise and authorize all activities. This includes but is not limited to events where N-Sync, Inc. personnel perform and/or fail to perform actual tasks and/or related activities either locally or via remote access.

All Information and/or Suggestions by N-Sync, Inc. are to be implemented at your own risk under your own discretion and authority. N-Sync, Inc. shall not be liable in any way and shall be held harmless.

N-Sync, Inc. **DOES NOT IN ANY WAY** take responsibility for the flow of communication, messages, or information to or from any customer, potential customer, or other entity. N-Sync, Inc. does not guarantee any specific, anticipated, expected, or desired outcome. N-Sync, Inc. Is in no way liable for monetary or other damages as a result of subscribing to, using, implementing, attempting, and/or testing any N-Sync, Inc. material(s), suggestion(s), or service(s), including but not limited to support, sales, consultation, message delivery, message scanning, device synchronization, electronic mail access, etc.

All services, sales, and/or activities related to or resulting from any and all direct or indirect contact or communication with N-Sync, Inc. are considered to be conducted in accordance with these published Terms and Conditions (located at [www.nsyncdata.net/terms.pdf](http://www.nsyncdata.net/terms.pdf)), specifically including this Disclaimer.

**The SOLE REMEDY for ANY failures, inadequacies, lack of availability, incorrect information, loss of data or material, or other negatively perceived result shall be to discontinue the service and/or relationship with N-Sync, Inc.**

Information contained herein is subject to change without notice at any time. N-Sync, Inc. has sole discretion as to the applicability of any or all aspects of this content.

## **N-Sync, Inc. Support Services Terms and Conditions** (Privacy and Security Policy)

### **We Don't Sell Information:**

N-Sync, Inc. does not sell any information regarding clients, customers, or subscribers (herein after known as Client ).

### **We Don't Give Out Your Information:**

N-Sync, Inc. does not provide any information relating to a Client to any organization not specifically and directly involved with the performance of our agreed upon duties to said Client.

### **We Don't Access Your Data:**

N-Sync, Inc. does not access the data of any Client participating in any Hosted, Delivered, or Other Service unless specifically directed to do so by the Client.

### **We Protect the Physical Location of our Equipment that Houses Your Data:**

N-Sync, Inc. Does not allow any unauthorized physical access to equipment where Client data or information is stored. These areas are protected by physical security measures.

### **We Use Advanced Enterprise Level Automated Security Solutions to Prevent Unauthorized Access to Your Data:**

N-Sync, Inc. implements and maintains reasonable technological safeguards to prevent unauthorized access. These include but are not limited to firewall services (certified by ICSA Labs), IPsec-based VPN services, NICI encryption, and an FIPS-140 validated encryption engine. We also use multiple layers of technologies to thwart the efforts of Hackers, SPAMMERS, and the delivery or propagation of Viruses.

## **N-Sync, Inc. Support Services Terms and Conditions**

### **Technical Support Coverage Conditions:**

#### *Scope of Coverage*

N-Sync, Inc. Service Agents will respond to questions regarding the features and the functioning of the designated products. It is not the *responsibility* of the agent to create or deliver forms, applications, documents or customizations such as macros, menus, batch files, directory objects, or product configuration objects for the caller or client, although assistance in these areas may be provided. These services may be available from N-Sync, Inc. under a separate consulting agreement.

#### *Definition of Dedicated Days*

A Dedicated Day is one where one or more members of N-Sync, Inc. staff is scheduled to perform a task(s) for a particular organization, and it is anticipated the task(s) will take between zero (0) and ten (10) hours. If the task takes more than 10 hours, the differential time is calculated based on an eight (8) hour day. Differential time may be compensated for by debiting additional Dedicated Days or through monetary means based on per diem rates and appropriate discounts as they may apply to an 8 hour day. The method of compensation for differential time is at the sole discretion of N-Sync, Inc.

#### *Expenses*

The customer is responsible for related and applicable expense such as Travel, Parking, Fuel, Tolls, Food, Lodging, etc. N-Sync, Inc. does not itemize or present receipts for expenses. When charging for expenses is

applicable, an amount determined to cover expenses are calculated by N-Sync, Inc. and presented to the customer in advance- whenever possible. Expenses are non-negotiable and not discountable. Unless otherwise arranged, expense payments are due in advance of rendering services.

#### **WEB SERVICES:**

1. **Introduction.** This agreement is for web hosting and or maintenance services for a predetermined amount of time between the client and N-Sync Inc. The date due shall be the anniversary of the effective date. Client shall provide N-Sync Inc. with any additional work products which are required in order for N-Sync Inc. to perform monthly maintenance of Client's web page in accordance with Client's specifications. Limited to a maximum amount of client prepaid for time per month under clients contract with N-Sync Inc. Additional work will be billed at our normal hourly rate of \$85 per hour for web design, \$95 per hour for Custom Web Scripting (client-side and server-side), \$125 per hour for Database Development & \$125 per hour for Custom Programming. Maintenance shall be completed within a reasonable time after receiving clients work products and maintenance specifications. Failure of Client to provide N-Sync Inc. with necessary work products and maintenance specifications shall not relieve Client of Client's monthly maintenance payment obligation even though N-Sync Inc. many not have performed any maintenance of the Client's Web Page.

2. **Mail Abuse.** Including, but not limited to, mass mailing unsolicited email and email forgery) and Usenet news abuse (including, but not limited to, mass cross posting articles and posting unrelated to group topics), whether direct or indirect, whether used externally to promote a site at N-Sync Inc. or sent N-Sync Inc. , is prohibited.

3. **Network Abuse.** Any use of N-Sync Inc. facilities to commit network abuse (including, but not limited to, denial of service attacks such as ping bombing, email bombing, "smurf", "winnuke", "land", "teardrop", etc.) or otherwise compromise the security of hosts or networks is prohibited.

4. **Data Storage.** All data stored or transmitted must be legal under all applicable US laws. The Account Holder is solely responsible for determining the legality of their data, which is stored or transmitted. It also the Account Holder's sole responsibility to have a complete back up of their company web site.

5. **Network Attacks.** Should the Account Holder become the target of a network attach, N-Sync Inc. reserves the right to take any necessary actions (including, but not limited to, temporary suspension of the Account Holder's account) required to return server or network operation to normal.

6. N-Sync Inc. may, at any time, increase Client's monthly hosting fee if in it's sole judgement N-Sync Inc. believes that traffic (ie: bandwidth/data transfer) from Client's site exceeds normal amounts. Normal amount defined as Ten (10). gigabyte data transfer per month, cost for additional data transfer will be \$10.00 per (1) gigabyte data transfer per month. If N-Sync Inc. increases Clients's monthly maintenance fee and/or Clients's monthly hosting fee then Client may at that time terminate this agreement. If client elects to terminate this agreement rather than agree to increase hosting and/or maintenance fees then N-SYNC INC. shall cease all hosting and maintenance activities and shall refund to Client a prorated portion of Client's prepaid monthly hosting and maintenance fees. Cost for excess bandwidth usage over 10GB remain responsibility of client.

7. Client's Web content may not include any materials, pictures, graphics, or language which is in violation of any Federal, State or Local law or regulation. This includes, but is not limited to copyrighted material, material which is threatening or obscene, and material protect by trade secrets. Client's Web content may not include any pornographic material of any kind whether legal or not.

8. Customer expressly agrees that use of N-Sync Inc. Servers is at Customer's sole risk. Neither N-Sync Inc. , its employees, affiliates, agents, third party information providers, merchants licensors or the like, warrant that N-Sync Inc. Server service will not be interrupted or error free; nor do they make any warranty as to the results that may be obtained from the use of the Server service or as to the accuracy, reliability or content of any information service or merchandise contained in or provided through the N-Sync Inc. Server service, unless otherwise expressly stated in this Agreement.

9. Under no circumstances, including negligence, shall N-Sync Inc. , its offices, agents or any one else involved in creating, producing or distributing N-Sync Inc. Server service be liable for any direct, indirect, incidental, special or consequential damages that result from the use of or inability to use the N-Sync Inc. Server service; or that results from mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation, or transmission or any failure of performance, whether or not limited to acts of God, communication failure, theft, destruction or unauthorized access to N-Sync Inc. records, programs or services. N-Sync Inc. does not assume liability for loss of data, software or hardware equipment malfunction; and/or loss of revenue due to system down time. Customer hereby acknowledges that this paragraph shall apply to all content on N-Sync Inc. Server service.

#### 10. Indemnification:

Customer agrees that it shall defend, indemnify, save and hold N-Sync Inc. harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorneys fees, ("Liabilities") asserted against N-Sync Inc. , its agents, its customers, servants officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by Customer, its agents, employees or assigns. Customer agrees to defend, indemnify and hold harmless N-Sync Inc. against Liabilities arising out of (i) any injury to person or property caused by any products sold or otherwise distributed in connection with N-Sync Inc. Server; (ii) any material supplied by Customer infringing or allegedly infringing on the proprietary rights of a third party; (iii) copyright infringement and (iv) any defective product which Customer sold on N-Sync Inc. Server.

11. N-Sync Inc. makes no warranty of any kind express or implied, including but not limited to, any warranty of merchantability or fitness for a particular purpose with respect to services provided under this agreement.

Disclaimer. N-Sync Inc. IS NOT LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, LITIGATION, OR THE LIKE), WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN N-SYNC INC. AND ACCOUNT HOLDER. SERVICES WILL NOT BE PROVIDED WITHOUT SUCH LIMITATIONS. SOME STATE STATUTES MAY APPLY REGARDING LIMITATION OF LIABILITY.

12. In the event that the client defaults in said contract the client shall be responsible for any and all legal fees, including but not limited to, reasonable attorneys fees and up to an additional 40% of unpaid balance between N-Sync Inc. & client for the reimbursement of collection agency fees.

13. It is agreed and understood that after the contract period this contract shall renew automatically unless and until it is terminated by either N-Sync Inc. or the Client. Termination must be in writing with signature of Contracting Official and may occur at any time for any reason.

14. Governing Law/ Exclusive Venue. This Agreement shall be construed under and in accordance with the laws of the State of Florida and the exclusive venue for its enforcement and any action based on this Agreement (including any action for declaratory relief) shall be in Brevard County, Florida

UNDERSTANDING OF CONTRACT AND TERMS: The Client understands and agrees with these terms that are listed. The Client, by hiring N-Sync Inc. and going into this agreement, acknowledges that he/she has read this contract/Terms and Conditions and will be bound to the terms of it. The Client acknowledges that N-Sync Inc. has the right to make this contract/Terms and Conditions, and to terminate it if the terms hereabove are broken by the Client. N-Sync Inc. will not give refunds or exchanges for any terminated or canceled contracts. If the contract is terminated for any reason, the Client shall be billed for services not yet paid for, that was done by N-Sync Inc. .