

DISASTER RECOVERY AGREEMENT

THIS AGREEMENT made effective as of the ____ day of _____, _____.

BETWEEN:

_____ (insert name of customer)
_____ (insert complete address)
(the "Customer")

OF THE FIRST PART

- and -

_____ (insert name of service provider)
_____ (insert complete address)
(the "Service Provider")

OF THE SECOND PART

WHEREAS:

- A. The Customer has computerized a significant amount of business operations, including administration, accounting/bookkeeping, invoicing and client records, and accordingly, the Customer desires to ensure that it has access to and use of a back up facility in the event of a Disaster as hereinafter defined;
- B. The Service Provider is able to provide the Customer with a backup facility as described herein in the event of a Disaster.

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereby agree as follows:

1. Definitions

1.1 Wherever the same are used herein, the following words and terms shall have the following meanings. Words importing the singular number include the plural and vice versa and words importing the masculine gender include the feminine and neuter genders, as the context requires:

- (a) "Authorized Personnel" shall mean the personnel of the Customer authorized to provide notice to and to otherwise deal with representatives of the Service Provider pursuant to this Agreement.
- (b) "Backup Facility" shall mean the Service Provider's computer equipment and office space described in Schedule "A", attached hereto and forming a part hereof, which shall made available to the Customer in the event that the Customer experiences a Disaster.
- (c) "Computer Facility" shall mean the Customer's computer installation located at _____ (insert complete address).
- (d) "Commencement Date" shall mean the date of execution of this Agreement.
- (e) "Disaster" shall mean any unplanned interruption or inaccessibility to the Customer's Computer Facility or to another User's computer facility due to a cause beyond the control of the Customer or the other User reasonably projected to last over _____ (insert number) consecutive hours. Any interruption due to system hardware, software or peripheral upgrades, maintenance or peripheral device malfunctions shall not constitute a Disaster.

- (f) "Disaster Notification" shall mean the written notice which the Customer is to provide to the Service Provider upon the occurrence of a Disaster requesting access to and use of the Backup Facility.
- (g) "Disaster Notification Fee" means the fee charged to the Customer by the Service Provider in the event that the Customer experiences a Disaster and requests access to the Backup Facility.
- (h) "Equipment Configuration" shall mean the configuration of the Customer's computer equipment as listed on the attached Schedule "B", attached hereto and forming a part hereof, as modified from time to time.
- (i) "Multiple Disaster" shall mean one or more Disasters being experienced by the Customer and other Users, requiring the Customer and such other Users to have access to and use of the Backup Facility for the same or an overlapping period of time.
- (j) "Recovery Operations Manual" shall mean the Service Provider's manual of instructions and procedures to be followed with respect to the use of the Backup Facility, as amended from time to time by the Service Provider.
- (k) "Subscription Fee" means the fee charged by the Service Provider to the Customer entitling the Customer access to and use of the Backup Facility.
- (l) "User(s)" shall mean other customer(s) who have entered into agreements with the Service Provider similar to this Agreement.

2. Disaster Recovery

2.1(a) The Customer shall designate _____ (*insert number*) of its personnel who have been authorized to provide Disaster Notifications to the Service Provider, one of whom shall be a senior officer or manager of the Customer. In the event that the Customer suffers a Disaster, one of the Customer's Authorized Personnel shall immediately provide the Service Provider with a written Disaster Notification. The Service Provider shall not be required to provide the Customer with access to the Backup Facility unless written Disaster Notification has been received by the Service Provider, signed by at least one of the Customer's Authorized Personnel.

(b) All Disaster Notifications to the Service Provider shall be made by the Customer in accordance with the Recovery Operations Manual.

2.2 Upon receipt of a Disaster Notification from one of the Customer's Authorized Personnel, the Service Provider shall, subject to the provisions of Section 3 hereof, provide access to and permit use of the Backup Facility within ____ (*insert number*) hours after such receipt.

2.3 Upon having given the Service Provider a proper Disaster Notification, the Customer shall, subject to the provisions of paragraph 3.1 hereof, be entitled to use of the Backup Facility for ____ (*insert number*) consecutive days/weeks (*delete inapplicable*). Forthwith after commencement of use of the Backup Facility, the Customer shall undertake to remedy the Disaster at its Computer Facility. After such ____ (*insert number*) day/week (*delete inapplicable*) period, the Customer shall be entitled to extended access to and use of the Backup Facility subject to the availability of the Backup Facility and the payment of the fees for extended access specified in Schedule "C" hereof and provided it has made a good faith effort to remedy the Disaster at its Computer Facility. In the event that another User experiences a Disaster during any extended period of use by the Customer, such other User shall be entitled to priority over the Customer with respect to the use of the Backup Facility.