



**COMPUTER SERVICES AGREEMENT**

**THIS AGREEMENT FOR COMPUTER SERVICES (this "Agreement") dated this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_**

**BETWEEN**

**ABC COMPANY of 123 MAIN ST. TORONTO ONTARIO M0M 0M0 (the "Customer")  
OF THE FIRST PART**

**- AND -**

**CaffComm Systems Inc. of 1209 – 233 South Park Road, Thornhill, Ontario, L3T 0B3  
(the "Computer Services Provider")**

**OF THE SECOND PART**

**BACKGROUND:**

- A. The Customer is of the opinion that the Computer Services Provider has the necessary qualifications, experience and abilities to provide computer services to the Customer.
- B. The Computer Services Provider is agreeable to providing such services to the Customer on the terms and conditions set out in this Agreement.

**IN CONSIDERATION OF** the matters described above and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

**Services Provided**

- 1. The Customer hereby agrees to engage the Computer Services Provider to provide the Customer with services (the "Services") consisting of IT Support, Maintenance and Monitoring. The Services will also include any other tasks which the parties may agree on. The Computer Services Provider hereby agrees to provide such Services to the Customer.

**Term of Agreement**

- 2. The term of this Agreement will begin on the date of this Agreement and will continue indefinitely until terminated as provided in this Agreement.
- 3. In the event that either party wishes to terminate this Agreement, that party will be required to provide a notice period of 3 months. During that period of 3 months, service standards will be maintained with professionalism and goodwill.
- 4. Except as otherwise provided in this Agreement, the obligations of the Computer Services Provider will terminate upon the earlier of the Computer Services Provider ceasing to be engaged by the Customer or the termination of this Agreement by the Customer or the Computer Services Provider.



### **Performance**

5. The parties agree to do everything necessary to ensure that the terms of this Agreement take effect.

### **Compensation**

6. For the services rendered by the Computer Services Provider as required by this Agreement, the Customer will pay to the Computer Services Provider compensation amounting to \$###.00 per month plus taxes.
7. This compensation will be payable on a monthly basis, while this Agreement is in force.
8. The Customer is entitled to deduct from the Computer Services Provider's compensation any applicable deductions and remittances as required by law.

### **Additional Provisions**

9. Monthly rate is based on Tier ## of Appendix A – CaffComm Systems Inc. Monthly Plan Options, including ## averaged hours per month of support, maintenance and monthly site fee services. Should more hours per month be utilized for 2 consecutive months, the Customer is automatically upgraded to the next tier monthly contract. Should the hours per month utilized fall below the next lower tier for 2 consecutive months, the Customer is automatically downgraded to the next lower tier monthly service contract.

### **Confidentiality**

10. The Computer Services Provider agrees that they will not disclose, divulge, reveal, report or use, for any purpose, any confidential information with respect to the business of the Customer, which the Computer Services Provider has obtained, except as may be necessary or desirable to further the business interests of the Customer. This obligation will survive indefinitely upon termination of this Agreement.

### **Non-Competition**

11. Other than with the express written consent of the Customer, which will not be unreasonably withheld, the Computer Services Provider will not, during the continuance of this Agreement or within 1 year after the termination of this Agreement, be directly or indirectly involved with a business which is in direct competition with the particular business line of the Customer, divert or attempt to divert from the Customer any business the Customer has enjoyed, solicited, or attempted to solicit, from other individuals or corporations, prior to termination of this Agreement.

### **Non-Solicitation**

12. Any attempt on the part of the Computer Services Provider to induce to leave the Customer's employ, or any effort by the Computer Services Provider to interfere with the Customer's relationship with its employees or other Computer Services Providers would be harmful and damaging to the Customer.
13. The Computer Services Provider agrees that during the term of this Agreement, the Computer Services Provider will not in any way directly or indirectly:
  1. induce or attempt to induce any employee or other Computer Services Provider of the Customer to quit employment or retainer with the Customer;



2. otherwise interfere with or disrupt the Customer's relationship with its employees or other Computer Services Providers;
3. discuss employment opportunities or provide information about competitive employment to any of the Customer's employees or other Computer Services Providers; or
4. solicit, entice, or hire away any employee or other Computer Services Provider of the Customer.

#### **Ownership of Materials**

14. All materials developed, produced, or in the process of being so under this Agreement, will be the property of the Customer. The use of the mentioned materials by the Customer will not be restricted in any manner.
15. The Computer Services Provider may retain use of the said materials and will not be responsible for damages resulting from their use for work other than services contracted for in this Agreement.

#### **Return of Property**

16. Upon the expiry or termination of this Agreement, the Computer Services Provider will return to the Customer any property, documentation, records, or confidential information which is the property of the Customer.

#### **Assignment**

17. The Computer Services Provider will not voluntarily or by operation of law assign or otherwise transfer its obligations under this Agreement without the prior written consent of the Customer.

#### **Capacity/Independent Contractor**

18. It is expressly agreed that the Computer Services Provider is acting as an independent contractor and not as an employee in providing the Services under this Agreement. The Computer Services Provider and the Customer acknowledge that this Agreement does not create a partnership or joint venture between them, and is exclusively a contract for service.

#### **Modification of Agreement**

19. Any amendment or modification of this Agreement or additional obligation assumed by either party in connection with this Agreement will only be binding if evidenced in writing signed by each party or an authorized representative of each party.

#### **Notice**

20. All notices, requests, demands or other communications required or permitted by the terms of this Agreement will be given in writing and delivered to the parties of this Agreement as follows:
  1. **ABC COMPANY – 123 MAIN ST. TORONTO M0M 0M0**  
Email: **DECISIONMAKER@ABCCOMPANY.COM**
  2. CaffComm Systems Inc.  
1209 – 233 South Park Road, Thornhill, , Ontario, L3T 0B3  
Email: [jwei@caffcomm.com](mailto:jwei@caffcomm.com)or to such other address as to which any Party may from time to time notify the other.



**Costs and Legal Expenses**

21. In the event that legal action is brought to enforce or interpret any term of this Agreement, the prevailing party will be entitled to recover, in addition to any other damages or award, all reasonable legal costs and fees associated with the action.

**Time of the Essence**

22. Time is of the essence in this Agreement. No extension or variation of this Agreement will operate as a waiver of this provision.

**Entire Agreement**

23. It is agreed that there is no representation, warranty, collateral agreement or condition affecting this Agreement except as expressly provided in this Agreement.

**Limitation of Liability**

24. It is understood and agreed that the Computer Services Provider will have no liability to the Customer or any other party for any loss or damage (whether direct, indirect, or consequential) which may arise from the provision of the Services.

**Indemnification**

25. The Computer Services Provider will indemnify and hold the Customer harmless from any claims against the Customer by any other party, arising directly or indirectly out of the provision of the Services by the Computer Services Provider.

**Enurement**

26. This Agreement will enure to the benefit of and be binding on the parties and their respective heirs, executors, administrators, successors and permitted assigns.

**Currency**

27. Except as otherwise provided in this Agreement, all monetary amounts referred to in this Agreement are in Canadian dollars

**Titles/Headings**

28. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement.

**Gender**

29. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

**Governing Law**

30. It is the intention of the parties to this Agreement that this Agreement and the performance under this Agreement, and all suits and special proceedings under this Agreement, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the Province of Ontario, without regard to the jurisdiction in which any action or special proceeding may be instituted.



**Severability**

31. In the event that any of the provisions of this Agreement are held to be invalid or unenforceable in whole or in part, all other provisions will nevertheless continue to be valid and enforceable with the invalid or unenforceable parts severed from the remainder of this Agreement.

**Waiver**

32. The waiver by either party of a breach, default, delay or omission of any of the provisions of this Agreement by the other party will not be construed as a waiver of any subsequent breach of the same or other provisions.

**IN WITNESS WHEREOF** the parties have duly executed this Computer Services Agreement this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

SIGNED, SEALED AND DELIVERED  
in the presence of

CaffComm Systems Inc.

Per: \_\_\_\_\_ (Corp seal)

**ABC COMPANY**

Per: \_\_\_\_\_ (Corp seal)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness



## Appendix A – CaffComm Systems Inc. Monthly Plan Options

Monthly rate is based on the averaged hours per month of support, maintenance and monthly site fee services. Should more hours per month be utilized for 2 consecutive months, the Customer is automatically upgraded to the next tier monthly contract. Should the hours per month utilized fall below the next lower tier for 2 consecutive months, the Customer is automatically downgraded to the next lower tier monthly service contract.

Plan Options:	Monthly Support Services Cost	Monthly Site Fee Cost	Averaged Hours/Month Included	Total Monthly Contract Cost (Taxes Extra)
Tier 1	\$300.00	Not Included	3	\$300.00
Tier 2	\$500.00	Not Included	5	\$500.00
Tier 3	\$750.00	Not Included	7.5	\$750.00
Tier 4	\$1,000.00	\$250.00	10	\$1,250.00
Tier 5	\$1,500.00	\$375.00	17.5	\$1,875.00
Tier 6	\$2,000.00	\$500.00	25	\$2,500.00
Tier 7	\$2,500.00	\$625.00	32.5	\$3,125.00
Tier 8	\$3,000.00	\$750.00	40	\$3,750.00
Tier 9	\$3,500.00	\$875.00	47.5	\$4,375.00
Tier 10	\$4,000.00	\$1,000.00	55	\$5,000.00
Tier 11	\$4,500.00	\$1,125.00	62.5	\$5,625.00
Tier 12	\$5,000.00	\$1,250.00	70	\$6,250.00
Tier 13	\$5,500.00	\$1,375.00	77.5	\$6,875.00
Tier 14	\$6,000.00	\$1,500.00	85	\$7,500.00
Tier 15	\$6,500.00	\$1,625.00	92.5	\$8,125.00
Tier 16	\$7,000.00	\$1,750.00	100	\$8,750.00
Tier 17	\$7,500.00	\$1,875.00	107.5	\$9,375.00
Tier 18	\$8,000.00	\$2,000.00	115	\$10,000.00
Tier 19	\$8,500.00	\$2,125.00	122.5	\$10,625.00
Tier 20	\$9,000.00	\$2,250.00	130	\$11,250.00

### Services included in contract:

#### Support Services

- Regular Computer and Server Maintenance
- Support Calls:
  - Mon. to Fri. – 7am to 7pm
  - Calls outside above hours are recorded as double time
- Onsite Service Calls:
  - Mon. to Fri. – 7am to 7pm
  - Minimum of 1 hour charge
  - Calls outside above hours are recorded as double time with a minimum of a 2 hour charge

#### Site Fee Services

- MRTG (Bandwidth/Speed) Graphing
  - Upon request
- Direct Connection to CaffComm Systems Support Network For Network Monitoring and Troubleshooting
- Planning and Development Consulting Services As required (Limited to 5% of Averaged Hours/Month Included in contract tier)