



**BRI WORKS PROFESSIONAL SUPPORT AGREEMENT
TERMS AND CONDITIONS**

The following terms and conditions comprise the entire agreement (collectively, the “Agreement”) between BRI Works (“BRI”) and its Client for BRI to provide IT Services (the “Services”) to Client:

Client: _____

Billing Address: _____

By: _____

Title: _____

Date: _____

1. OWNERSHIP OF MATERIALS RELATED TO SERVICES.

a. The parties agree that all drawings, documents, designs, models, data and other tangible materials authored or prepared by BRI for Client under this Agreement (collectively, "Works"), are the sole and exclusive property of Client and shall be considered works made for hire.

b. Client acknowledges that BRI provides consulting services to other clients, and agrees that nothing in this Agreement shall be deemed or construed to prevent BRI from carrying on such business. In particular, Client agrees that, notwithstanding anything to the contrary set forth herein: (i) BRI shall have the right to retain a copy of each of the Works for its records; (ii) as part of BRI's provision of the Services hereunder, BRI may utilize proprietary works of authorship, that have not been created specifically for Client, including without limitation software, methodologies, tools, specifications, drawings, sketches, models, samples, records and documentation, as well as copyrights, trademarks, service marks, ideas, concepts, know-how, techniques, knowledge or data, which have been originated, developed or purchased by BRI or by third parties under contract to BRI (all of the foregoing, collectively, “BRI’s Information”); (iii) BRI’s Information and BRI’s administrative communications, records, files and working papers relating to the Services shall not be deemed to be Works and are and shall remain the sole and exclusive property of BRI and (iv) Client hereby grants to BRI a perpetual, royalty free, irrevocable, worldwide, non-exclusive license to use the Works, and to create and use derivative works derived from the Works.

c. To the extent that BRI incorporates any of BRI’s Information into the Works, BRI hereby grants to Client a royalty-free, non-exclusive license to use such BRI’s Information solely in connection with Client’s use of the Works.

2. PAYMENT.

a. Invoices shall be mailed to Client at the designated billing address, as set forth in this Professional Support Agreement. Client shall pay invoices

upon receipt. Any invoice not paid within a fifteen (15) day period will be considered past due and will accrue interest at the rate of one and one-half percent (1.5%) per month. If any amount due under this Agreement is collected by or through an attorney, Client shall pay all of BRI’s collection costs, including attorneys fees.

b. All fees, charges and other amounts payable to BRI hereunder do not include any sales, use, excise, value added or other applicable taxes, tariffs or duties, payment of which shall be the sole responsibility of Client (excluding any applicable taxes based on Consultant net income or taxes arising from the employment or other relationship between BRI and its personnel). In the event that such taxes, tariffs or duties are assessed against BRI, Client shall reimburse BRI for any such amounts paid by BRI or provide BRI with valid tax exemption certificates with respect thereto.

3. BRI’s LIMITED WARRANTIES AND WARRANTY DISCLAIMER.

a. BRI warrants to Client that BRI’s performance of the Services called for by this Agreement, to its knowledge, does not violate any applicable law, rule, or regulation.

b. BRI warrants to Client that BRI has full authority and sufficient rights, except for rights respecting programs, data and materials provided by Client, identified by Client, or furnished to Client by third-party vendors, to grant and convey the rights granted to Client under Paragraph 1 hereof.

c. THE EXPRESS WARRANTIES IN THIS PARAGRAPH 3 SHALL BE IN LIEU OF ALL OTHER WARRANTIES OR GUARANTIES, EXPRESS OR IMPLIED. TO THE FULLEST EXTENT PERMITTED BY LAW, BRI DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF TITLE, NON-INFRINGEMENT, NONINTERFERENCE, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. BRI PROVIDES ITS SERVICES “AS IS,” “WITH ALL FAULTS,” AND “AS AVAILABLE.”

Authorized Signature: _____

Date: _____

4. TERMINATION. Either party may terminate this Agreement upon sixty (60) days written notice to the other party. Upon any termination, BRI will be paid all fees and expenses which have been incurred or earned in connection with the performance of the Services through the effective date of such termination. Client shall return to BRI any and all of BRI's property in Client's possession on or before the effective date of such termination.

5. LIMITATIONS OF LIABILITY; INDEMNIFICATION.

a. IN NO EVENT SHALL BRI'S LIABILITY FOR ANY CLAIM RELATING TO THE SERVICES EXCEED THE TOTAL AMOUNT OF FEES THAT CLIENT PAID TO BRI FOR THOSE SERVICES PURSUANT TO THIS AGREEMENT. BRI SHALL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING FROM BRI'S SERVICES. THESE EXCLUSIONS APPLY TO ANY CLAIMS FOR LOST PROFITS, LOST DATA, LOSS OF GOODWILL, WORK STOPPAGE, COMPUTER OR TELEPHONE FAILURE OR MALFUNCTION, COMMUNICATIONS INTERRUPTIONS, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, EVEN IF BRI KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY FOR SUCH DAMAGES.

b. Client agrees to indemnify and hold BRI harmless from and against any and all claims, actions, liabilities, costs and expenses which may be claimed against or incurred by BRI arising directly or indirectly out of BRI's performance of its work for Client.

c. Client acknowledges and agrees that BRI may, in performing its obligations pursuant to this Agreement, be using data, material, and other information furnished by Client without any independent investigation or verification thereof, that BRI shall be entitled to rely upon the accuracy and completeness of such information in performing the Services, and that BRI shall not be subject to any liability arising, either directly or indirectly, out of such reliance.

6. CONFIDENTIAL INFORMATION. Both parties recognize that their relationship will give each other access to non-public proprietary information, confidential information and trade secrets. Consequently, during the term of this Agreement and thereafter, they will not use for themselves or for others or divulge to anyone except persons specifically designated by each organization any such information, trade secrets, know how, or data relating to their business which may become known as a result of or during this contractual relationship. Each will use particular care to insure that such information does not become known to those who are engaged in activities competitive with the other party. Such information, trade secrets, know how or data shall include, but not be limited to, any information concerning their processes, products, services, inventions, engineering, marketing, selling methods and techniques, research and development, computer programs, ideas and plans for development, long range plans and strategies, and any such other information concerning their business or its manner of operation which is not generally known in the industry.

7. NON-SOLICITATION OF EMPLOYEES. Neither party shall, during the term of this Agreement and for two (2) years after its termination, hire or solicit for hire as an employee, consultant or otherwise any of the other party's personnel who have had involvement with the Services, without such other party's express written consent. In the event of hiring without both parties written consent, the hiring party agrees to

pay the other party the greater of; one half of the annual salary of the hired employee or fifty thousand dollars.

8. INDEPENDENT CONTRACTOR. BRI is performing the Services as an independent contractor and not as an employee of Client and none of BRI's personnel shall be entitled to receive any compensation, benefits or other incidents of employment from Client. Subject to Section 2(b), BRI shall be responsible for all taxes and other expenses arising from the employment or other relationship between BRI and its personnel and the rendition of Services hereunder by such personnel to Client. Nothing in this Agreement shall be deemed to constitute a partnership or joint venture between Client and BRI, nor shall anything in this Agreement be deemed to constitute BRI or Client the agent of the other. Neither BRI nor Client shall be or become liable or bound by any representation, act or omission whatsoever of the other.

9. NONASSIGNABILITY. Neither party shall assign, transfer, or subcontract this Agreement or any of its obligations hereunder without the other party's express, prior written consent.

10. NOTICES. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given upon personal delivery, three (3) days after being mailed by registered or certified mail, return receipt requested, or one (1) business day after being sent by nationally recognized overnight courier with receipted delivery. Notices shall be addressed as follows:

To BRI: Blue Ridge Internetworks
Attn: Evan McGraw
321 East Main Street, Suite 200
Charlottesville, VA 22902

To Client: Authorized Signatory at Billing Address

11. SEVERABILITY. In the event that any term or provision of this Agreement shall be held to be invalid, void or unenforceable, then the remainder of this Agreement shall not be affected, impaired or invalidated, and each such term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

12. GOVERNING LAW; CHOICE OF FORUM. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without regard to the conflict of laws provisions thereof. Any litigation brought to enforce this Agreement shall be brought in the state or federal courts located within the City of Charlottesville, Virginia or the County of Albemarle, Virginia.

13. WAIVER OF JURY TRIAL. The parties desire to avoid the additional time and expense related to a jury trial of any disputes arising under this Agreement. Therefore, the parties waive the right to a trial by jury of any claim or counterclaim brought by either party against the other arising out of or in any way connected with this Agreement. The parties acknowledge and agree that this waiver is knowing, freely and voluntarily given, is desired by both parties, and is in the interest of both parties.

14. INTEGRATION. These Terms and Conditions, as well as the Professional Support Agreement between BRI and Client, constitute the entire agreement of the parties hereto with respect to its subject matter and supersede all prior and contemporaneous representations, proposals, discussions, and communications, whether oral or in writing. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by each of the parties hereto.

Authorized Signature: _____

Date: _____

15. NO WAIVER OF PERFORMANCE. Failure by either party to require performance by the other party or to claim a breach of any provision of this Agreement will not be construed as a waiver of any right accruing under this Agreement, nor affect any subsequent breach, nor affect the effectiveness of this Agreement or any part hereof, nor prejudice either party as regards any subsequent action.

16. SURVIVAL. Sections 1, 3, 5, 6, 7, and 8 shall survive any termination of this Agreement.

Authorized Signature: _____

Date: _____