Terms of Service

1. General

1.1 NQhost.com (hereinafter, referred to 'Website') is a Homepage Universe, Inc. company incorporated in United States (hereinafter, referred to as 'We' or 'Company' or 'Us' or 'Our'). The following Terms of Use (hereinafter, referred to as "Agreement") shall govern the relationship between the Company and its customers (hereinafter, also referred to as "You" or "Your"). If this Agreement or any part hereof is not acceptable, it is strongly advised to cease any further usage of the services offered through this Website with immediate effect.

1.2 This Agreement constitutes a legal document creating and defining general and specific rights, duties, and liabilities of the respective parties. In addition to, or in lieu of, this Agreement, You may be subjected to additional terms and conditions specific to a product or service.

1.3 We reserve the right to change, modify, or edit this Agreement at any time without any notice, express or otherwise, to anyone. All such changes or modifications shall come into force as and when they are published on this page. Therefore, We strongly advise all the users to periodically check this page to keep themselves updated about the changes. Your continued use of the services constitute Your implied acceptance of such modifications and changes.

1.4 If You are an individual, You must be eighteen (18) years of age or older in order to enter into this Agreement to subscribe to the service that the Company provides to You, and You herewith assures the Company that You meet the said age requirement. If You are any other legal entity, You herewith assures the Company that You have all the legal authority necessary to enter into this Agreement to subscribe to the service the Company provides to You.

1.5 If you have any questions or doubts regarding any part of this Agreement, please feel free to contact us with your queries.

2. Conclusion of Contract

2.1 Our offers are subject to change at any time, at Our sole discretion. We reserve the right to make technical and other changes within reason and without any notice to anyone.

2.2 Upon ordering, You are bound to the tentative offer. We will confirm the receipt of Your order immediately. The confirmation is not contractually binding. The confirmation and acceptance of the contract may be incorporated together.

2.3 We are entitled to accept the offer of a contract (the order) within a period of nine (9) working days after receipt. We are also entitled to reject the order after examining the reliability of the customer.

3. Scope of Services

3.1 As far as the subject of the contractual relationship is concerned regarding the registration of domain names, We conduct the procurement of the desired domain only. For the actual allocation of the domain name, You can only expect it if this is confirmed by Us. We do not have any influence over the allocation of the domain. A liability and warranty for the actual allocation of ordered domain names is therefore excluded.

3.2 Various top-level domains ("domain suffixes") are administered by a multitude of different organizations. Each of these organizations allocating domains has different terms and conditions for registration and administration of top-level domains, their respective sub-level domains and the procedures for domain disputes.

3.3 We guarantee an annual average of 99% network availability for the infrastructure of Our computer center. If the security of the power supply network or the maintenance of

network integrity is in danger, We may temporarily restrict access to the service, if required.

3.4 The services offered are those valid at the time of the order based on the offer information, the Order Form and the applicable monthly special offers.

3.5 If the customer wishes to be registered with Search Engines (online Search Engines of Internet content), We shall be solely responsible for mediation. The operators of the Search Engines shall be solely responsible for the date and time of admission to the Search Engine.

3.6 Technical support services are not included in the offers. If needed or desired, You will be charged separately.

4. Data Integrity

4.1 Where data is transmitted to Us, You shall back up Your data regularly. The server will be backed up regularly by Us when this is part of the offer. In the case of data loss, You must transfer the respective databases to Us again free of charge.

4.2 You shall be liable to carry out a complete data backup before any changes are made.

4.3 You will receive a user ID and password for security purposes. This must be kept confidential. You shall be held liable for any malpractice resulting from any unauthorized use of Your password. If You become aware that unauthorized third parties know Your password, You shall inform Us without any delay. If You are at fault for third-party password abuse, You shall be liable for all user fees and damages. In suspicious cases, You will be able to request a new password, which We'll then send to Your registered email ID.

5. Acceptable Use Policy (AUP)

The following provisions set out Our Acceptable Use Policy (AUP), the violation of which gives Us the right to take any appropriate action against the offending customer including, but not limited to, suspension and/or termination of account:

5.1 Own **and Third Party Content:** You shall be responsible for identifying the Internet content as Your own or as third-party content. Your full name and address must be appended in Your content. Further obligations may be applicable from the provisions of the applicable statutes and rules and regulations as applicable in Your jurisdiction. You shall be solely responsible for examining these statutes, rules and regulations and complying with them.

5.2 **Third Party Rights:** You understand, agree, and undertake not to publish content that may violate the rights of third parties or otherwise violate any applicable law. The publishing of erotic, pornographic, extremist material or material not deemed in good taste is strictly prohibited. The publishing of content, which is capable of violating the rights of, or insults, or denigrates, individuals or groups of people, is strictly prohibited. This applies even without an actual legal claim. We are not obligated to review Your content but reserve the right to review it at Our sole discretion.

5.3 **Non-Acceptable Content, Links, and Activities:** In order to operate at highperformance and reliable network for Our clients, the following actions are prohibited:
- Use of file sharing tools, like eDonkey,
- Scanning of foreign networks or foreign IP addresses,
- Manually changing the hardware address (MAC),
- Public proxy hosting,
- Adult content,
- Rapidleech (and similar) scripts, and
- Torrent trackers hosting

5.4 **Illegal Activities:** You are not allowed to use Our services for illegal purposes or in

support of illegal activities including, but not limited to, transmitting (by email, uploading, posting or otherwise) or distributing, downloading, copying, caching, hosting or storing data, information or content which, in Our sole determination, constitutes a violation of any relevant law, regulation, ordinance or court order. You shall be solely responsible for determining the laws, regulations, ordinances and court orders that are applicable to Your use of Our services.

5.5 **Threats:** You are prohibited from using Our services to transmit (by email, uploading, posting or otherwise), distribute, download, copy, cache, host or store on a server any material that threatens or encourages bodily harm, destruction of property or any other type of harm.

5.6 **Harassment:** You are prohibited from using Our services to transmit (by email, uploading, posting or otherwise), distribute, download, copy, cache, host or store on a server any material that harasses or stalks another.

5.7 **Defamation:** You shall not use Our services to transmit (by email, uploading, posting or otherwise), distribute, download, copy, cache, host or store on a server any material that is harmful, abusive, defamatory or libelous.

5.8 **Violation of Duty:** The use of Our services to transmit (by email, uploading, posting or otherwise), distribute, download, copy, cache, host or store on a server any material in violation of any duty under any law (including court order), contract or any fiduciary relationship, is strictly prohibited.

5.9 **Forgery or Impersonation:** You agree not to add, remove, modify or forge any message header, network header, TCP/IP packet header or any part of any header or information in any transmission (including any email, upload, posting or other transmission), originating or passing through Our services, in an effort to deceive or mislead another; impersonating or attempting to impersonate any person or entity in any transmission (including any email, upload, posting or other transmission) originating or passing through Our services; misleading or attempting to mislead any person or entity, by use of incorrect identifying information. The use of anonymous re-mailers or nicknames does not constitute a violation hereunder. You shall be required to maintain a policy requiring proper "From" and/or "Reply To" headers on all email and Usenet postings.

5.10 **Fraudulent Activities:** You shall not use Our services in furtherance of, or involving any, fraudulent activity or fraudulent purpose, or to make any fraudulent offers to sell or buy products, items or services, or to advance any type of financial scam including, but not limited to, pyramid schemes, chain letters or any other financial scam; or use Our services to effect a misrepresentation or misleading statement, writing or activity.

5.11 **SPAM Policy:** You are strictly prohibited from using Our services to: transmit (by email, uploading, posting or otherwise), distribute, download, copy, cache, host or store on a server any spam, Unsolicited Commercial Email (UCE) or Unsolicited Bulk Email (UBE); operate mailing lists, listservs or mailing services that target an audience and that has not voluntarily signed up for email information using a double opt-in process or that has not made their email addresses available to Subscriber for distribution of information; effect spamming via third-party proxy, aggregation of proxy lists or installation of proxy mailing software; accept and process third-party messages for sending without user identification and authentication; host, or permit hosting of, web pages, sites or information advertised within SPAM, UCE or UBE from another network (such as spamvertising); violate any applicable law or statute, establishing requirements for sending certain types of commercial mail.

NOTE: A Subscriber hosting websites or services on Subscriber's server supporting spammers or resulting in any of Our IP space to be listed in any of the various Spam

Databases or black hole lists will have its service immediately disconnected. Subscribers who operate mailing lists, listservs or mailing services must a) maintain complete and accurate records of all consents and opt-ins, including the actual emails and their headers, b) provide such records to Us upon request, and c) allow any party on the list to remove itself automatically and permanently. If Subscriber cannot provide proof of such consents and opt-ins, We will consider the mass mailing to be unsolicited. Subscribers must maintain proper security on their servers to prevent them from being used as SPAM amplifiers by third parties.

5.12 **Technological Attacks:** You shall refrain from interfering with, disrupting or adversely affecting, or attempting to interfere with, disrupt or adversely affect, the ability to use Our services, the Internet or any other services or equipment (this includes Denial of Service, or DoS, attacks against another network, host or individual user); using Our services to interfere with, disrupt or adversely affect, or to attempt to interfere with, disrupt or adversely affect, the service of any subscriber, subscriber's sub-users, host, network or system including, without limitation, via overloading, flooding, email bombing, news bombing, crashing or any similar activity; using Our services to impede another person's use of electronic mail services or news; using any program, or sending messages of any kind, designed to interfere with or disable a user's session.

5.13 **Usenet SPAMming:** You shall not use Our services for the purpose of transmitting (by email, uploading, posting or otherwise), distribute, download, copy, cache, host or store on a server any material, messages or commercial advertisements that violate the regulations, FAQ's, charters, policies or other rules of any newsgroup or mailing list. Usenet posts and content must conform to the standards established by the Internet community and the applicable newsgroup rules; commercial messages deemed appropriate under the rules of a newsgroup or mailing list, or that are solicited by the recipients, are permitted.

5.14 **Unauthorized Access:** You agree not to access, corrupt or take, or attempt to access, corrupt or take, any data, information or the accounts of others; log into a server or account, or enter or use or attempt to enter or use another person's or entity's computer system which Subscriber/Subscriber's Sub-User is not authorized to access, enter or use; penetrate or attempt to penetrate Our security measures or another person's or entity's computer software or hardware, electronic communications system, or telecommunications system or security; and any similar activity prohibited by federal or state law.

5.15 **Intellectual Property Rights:** You are prohibited from using Our services to transmit (by email, uploading, posting or otherwise), distribute, download, copy, cache, host or store on a server any information, data, content, material or work that infringes any copyright, trademark, service mark, patent, trade secret any or other intellectual property right(s) of any person or entity.

5.16 **Collection of Personal Data:** You are not permitted to use Our services to collect, or to
attempt to collect, personal information about third parties without their knowledge or express consent.

5.17 **Unfriendly Activity:** Any action leading to Subscriber's/ Subscriber's Sub-User's allowance of others to use its/their network, or permitting its/their network to be configured in such a way that affords a third party the capability to use its/their network, in an illegal, inappropriate or unfriendly manner; causing or initiating security breaches or disruptions of network communication or connectivity; executing any form of activity that intercepts data not intended for Subscriber's/ Subscriber's Sub-User's server(s); evading or circumventing user authentication or security of any host, network or account; engaging in any conduct designed to avoid restrictions or access limits to

specific services, hosts or networks; probing, scanning or testing, or attempting to probe, scan or test, the vulnerability of a system or network without proper authorization; breaching or attempting to breach security or authentication measures without proper authorization; taking any action in order to obtain, or attempting to obtain, services to which such Subscriber/ Subscriber's Sub-User is not entitled, is strictly prohibited.

5.18 **Distribution of Unwanted Software:** You shall not use Our services to effect the intentional distribution of software or computer code, files or programs that causes, or attempts to cause, damage, harassment or annoyance to persons, entities, data and/or computer systems.

5.19 **Inappropriate Use of Software:** You are prohibited from using Our services to employ
software or any device that would facilitate a continued connection (such as pinging) or would negatively affect a person's or entity's ability to engage in real time exchanges.

5.20 **IRC Networks:** IRC is allowed only on Our separate IRC network.

5.21 **IP Addresses:** You shall not use IP addresses that were not assigned by Us.

5.22 **Terrorist Activity:** You undertake not to use Our services to provide support or resources (including concealing or disguising the nature, location, source, or ownership of support or resources) to any organization designated by any appropriate internationally recognized governmental or non-governmental organization as a terrorist organization.

5.23 **Gambling:** You shall refrain from using Our services for, or to promote, gambling that is, or may be, prohibited or restricted by any state or federal gambling laws or regulations.

5.24 **Child Pornography:** Your action shall not, in any manner whatsoever, cause harm to minors or promote or profess child pornography by using Our services. Using Our services to harm minors in any way or transmitting (by email, uploading, posting or otherwise), distributing, downloading, copying, caching, hosting or storing on a server any child pornography is illegal.

5.25 **Violation of Security:** It shall be Your sole responsibility to maintain and enforce these provisions against all of Your Sub-users. Please consult an attorney if you are uncertain of the legal status of any of Your activities. We will comply with all orders and obligations of any court or government agency. We expressly disclaim any liability for the data and content residing on Our network and for the actions and inactions of Our Subscribers, including Subscriber's Sub-Users.

6. Liability

6.1 For direct damages, secondary damages or lost profits due to technical problems and disturbances within the Internet that are not in Our sphere of influence, We assume no liability.

6.2 With regards to contractors, We are not liable for minor negligence of contractual obligations. This does not apply to all cases of personal injury and is in accordance with the product liability law. For indirect damages and loss of profits, We are liable only in cases of intentional or gross negligence. In this case, We are liable only for the contracttypical predictable damage, a maximum of 100% of the monthly fee.

6.3 If Your web content is in violation of paragraph 6 of obligations, particularly in violation of legal prohibitions or morality, You shall be liable for all of the resulting direct and indirect damages, including property damage. In addition, You agree to free Us from all claims by third parties – no matter which kind – that may result from illegal Internet content. The exemption obligation includes liability for all legal defense costs (e.g. court and attorneys' fees).

6.4 The service that the Company provides to You is on an "as is" and "as available" basis,

and Your use of the said service is at Your sole risk. In no case shall the Company or any of its managers, members, employees, affiliates, attorneys, agents, contractors or licensors be liable for any direct, indirect, incidental, punitive, exemplary, special or consequential damages, losses, costs or expenses, including, but not limited to, loss of profits, loss of data, loss or damage to goodwill, or loss of use of data or other intangible losses, or for any claim(s) related thereto, even if the said party has been advised of the possibility of such damages, losses, costs, expenses or claims, arising from or related to. 6.5 We shall not be responsible for, and You shall be solely responsible for, fully insuring Your and Your Sub-Users' collocation system/data against destruction, damage, taking, unavailability or other loss, and We shall not be responsible for, and You shall be solely responsible for, fully insuring any/all collocation server computers, components and equipment owned or controlled by You against loss and damage during shipment, handling, placement and use, whether said server computer/equipment is in Our possession or control or otherwise. You shall be solely responsible for packaging and removing from Our premises/control any/all collocation servers and equipment owned or controlled by You. You shall pay Us a USD 20.00 handling fee plus shipping costs per package for any server/equipment that You requests the Company to ship. Any collocation server or equipment not removed within thirty (30) days after cancellation of this Agreement for any reason will be considered abandoned and forfeited.

7. Payment Terms

7.1 The current valid prices are accessible at any time at http://nqhost.com

7.2 Depending on the contractual agreement, a monthly, quarterly or annual account will be issued. Monthly payments are conducted solely by issuing a debit authorization. All other payments are carried out by issuing an invoice. Payment is due immediately upon receipt of the invoice.

7.3 We are entitled without warning to deduct default interest on all overdue payments as indicated on the invoices. If the client is a consumer/end-user, the amount of interest charged will be five (5) percentage points above the base rate. If the client is a contractor/business, the interest charged will be eight (8) percentage points above the base rate.

7.4 We are also entitled, in case of default payments, to block the Internet presence of the customer and to block all other functions.

7.5 Invoices are sent by Email as attachments, on request with qualified signature. To receive invoices by ordinary post, We shall charge a reasonable service fee. For retrospective changes to invoices, which come about due to no fault of ours, We shall be entitled to charge a reasonable service fee.

7.6 All payments made to the Company by You or on Your behalf are nonrefundable – including the one-time set-up fee, if any, as well as any/all subsequent monthly charges (regardless of usage). Overcharges or billing disputes must be reported to the Company within thirty (30) days of occurrence, otherwise You shall waive all claims related thereto. If You dispute a charge to Your credit card issuer, which charge the Company deems, in its sole discretion, to be valid under the terms and conditions of this Agreement, You shall pay the Company, in addition to the said disputed charge, an Administrative Fee of not less than USD 50.00 and not more than USD 150.00.

8. Contract Duration / Cancellation / Place of Execution

8.1 Where not otherwise contractually agreed, the contracts shall be valid for an indefinite period of time.

8.2 The contract is cancellable without giving reasons by both parties at any time during a period of thirty (30) days to the end of the month, but at the earliest on expiry of the minimum contract period stipulated in the contract. A cancellation can only be done in writing through the Company's CRM system (http://crm.nqhost.com), email or fax.

8.3 We reserve the right to terminate the contractual relationship for good cause at any time without any notice. One important reason for termination would be in the case of two consecutive months that the customer did not pay a substantial part of the compensation owed. Another important reason, among others, can also be that the customer contravenes or ignores warnings about infringement of the requirements of Section 5. Another important reason that can result in termination without notice, could be that the customer uses content, which affects the performance or the safety of the server.

8.4 You shall not be credited, under any circumstances, for any time that the service that We provide to You is suspended, interrupted or terminated.

8.5 The place of business for all services under this contract is California, United States. Jurisdiction for all disputes arising from this contract shall be that of the relevant local courts in California, United States.

8.6 If the client intends to devolve his contractual rights to another person, he/she requires Our consent. Devolution of contractual rights can only be done in writing by the Company's CRM system (http://crm.nqhost.com), letter or fax. When devolution is carried out by letter or fax, the previous and the new contract partners must both provide a signature.

9. Queries And Complaints

Queries and complaints should be addressed to NQHost, 303 N Glenoaks Blvd. STE 200 Burbank, CA 91502 US

10. Waiver

Waiver by the Company of Your breach of any term or condition of this Agreement shall not operate as or be construed as a continuing or subsequent waiver thereof or as a waiver of any breach of any other term or condition of this Agreement.

11. Indemnity

You shall fully defend, indemnify, pay and hold harmless the Company and its managers, members, employees, affiliates, attorneys, agents, contractors and licensors for any violation(s) of this Agreement and for any violation(s) by a subsubscriber of, client of, customer of, reseller of, user of, sub-user of, or similar party related to, You (collectively referred to as a "Subscriber's Sub-User"), that results in any loss, damage, cost or expense to the Company or a Companyrelated party, or in any claim made or threatened against the Company or a Company-related party by any third-party. If the Company or a Company-related party is sued (or if a suit is threatened against the Company or a Company-related party) because of Your or a Subscriber's Sub-User's act or omission, You shall pay any and all damages awarded against the Company and any Company-related party immediately upon such award (whether or not any appeal is available/ taken), plus any and all of Company's and any Company-related party's expenses and costs (including Company's and any Company-related party's reasonable attorneys' fees) related thereto.

12. Support and Service

12.1 Within Our field of service and ability, We offer 24 hours/day x 7 days/week technical support to You, except during a few holidays and company meetings when We temporarily close Our facility. Your server computer(s) housed at Our facility is(are) unmanaged, and We offer only that the service provided by Us to Your server computer(s) is online and remotely accessible. We do not offer technical support for application-specific issues, and We shall not provide technical support to Your Sub-Users. You should contact the Company via Our CRM system (http://crm.nqhost.com). In the event We need to ship out of Our premises any failed component of a server owned or controlled by You for any reason, a USD 20.00 handling fee per shipment plus all shipping costs will be applied.

12.2 We do not guarantee that the service that We provide to You is or will be free from

errors, omissions, corruption, attack, viruses, interference, loss, hacking, security intrusion, delays, non-delivery, wrong delivery or any other causes of interruption or damage (collectively "Service Faults").