

## CLIENT PORTAL USER AGREEMENT

**Please scroll down to accept this agreement.**

This Client Portal User Agreement "Agreement" is made by and between nVirtua (the "Company") and you the "Client" upon the following terms and conditions:

**1. Purpose.** Company provides a voluntary Client Portal (secure internet site) to permit easy and secure electronic transfer of documents between Client and Company, as well as ongoing Client access to certain documents (may include confidential documents) created or maintained by Company. Company has the sole discretion to decide what types of documents can be uploaded or viewed on the Client Portal. Client's access code allows viewing of materials related to its relationship with Company, and provides no ability to view materials for any other party. Client shall not attempt to access or view materials for any other party. Client must maintain the appropriate level of confidentiality for material that it downloads from the Client Portal. Company is not responsible for the security of any material that Client downloads from the Client Portal.

**2. Service Availability.** Company will use its best efforts to provide 24 hour daily availability of the Client Portal. However, Company makes no representation or warranty that 24 hour service will be available. Client agrees and acknowledges that the Client Portal will, at times, be unavailable due to regularly scheduled maintenance, service upgrades or other mechanical or electronic failures.

**3. Supported Browser.** Client agrees to access the Client Portal using an internet browser listed in the Client User Guide, as updated from time to time.

**4. Security.** Company will use its best efforts to make the Client Portal secure from unauthorized access with password protected access. Documents are encrypted before being sent over the web when being added to portals, and while stored on the Portal server. SSL is the industry standard for establishing secure information transport over the web and allows the Company to meet the more stringent legislative and regulatory requirements governing the transmission of sensitive client information over the internet. However, Client recognizes that no completely secure system or electronic data storage transfer has yet been devised. Company makes no warranty, express or implied, regarding the efficacy of the security of the Client Portal and shall never be liable for any claimed actual or consequential damages arising from any breach or alleged breach of security of the Client Portal. Client shall not attempt to disable or circumvent any security features on the Client Portal.

**5. Login Accounts and Their Security.** Company will set up an administrator login account for the primary user to access the Client Portal. (Company strongly recommends that Client establish a policy that login information not be shared among its employees, contractors, or other third party users.) The administrator has the ability to give additional employee's access to the Client Portal and is responsible for maintaining an accurate list of employees that have access. Client understands that it is responsible for all access to the Client Portal granted through the administrator login account. Company does not have the ability to add additional employees at this time.

**6. Restricted Use/Confidentiality.** Unless we agree otherwise in writing, you are provided with access to this Portal for your use only. Without limiting the foregoing, you may not without our written permission on sell information obtained from this Portal to any third party. These obligations of confidentiality do not apply to any information which is already in the public domain, other than

through a breach by you of this obligation, or which is required to be disclosed by law or a regulatory body.

**7. Termination of Login Account.** Client has the responsibility to remove an individual login account if the access is to be terminated. The Company does not have access to terminate individual accounts. If the administrator on the Client Portal needs to be changed, please notify Company immediately and the assigned account administrator will be blocked and removed.

**8. Ownership.** Client agrees not to copy, modify, rent, lease, loan, sell, assign, distribute, reverse engineer, grant a security interest in, or otherwise transfer any right to the technology or software underlying the Client Portal. Client agrees not to modify the software underlying the Client Portal in any manner or form or to use modified versions of such software, including, without limitation, for the purpose of obtaining unauthorized access to the Client Portal.

**9. No Unlawful and Prohibited Use.** You are prohibited from using the portal to damage, disable, or overburden Company's servers or network or impair the portal or interfere with any other party's use of the portal. Hacking, password mining, or any other means to gain unauthorized access to the portal, portal accounts, computer or network is prohibited. Posting or transmitting any unlawful, threatening, libelous, defamatory, obscene, scandalous, inflammatory, pornographic, or profane material or any material that could constitute or encourage conduct that would be considered a criminal offense, give rise to civil liability, or otherwise violate any law is also prohibited. Company will fully cooperate with any law enforcement authorities or court order requesting or directing Company to disclose the identity of any one posting any such information and materials.

**10. Modification of Services.** Company reserves the right, in its sole discretion, to supplement, modify or discontinue any aspect of the Client Portal, including, without limitation, restricting the times or means of access to the Client Portal. Company also reserves the right, in its sole discretion, to modify this Agreement in any manner and to adopt additional terms or conditions governing Client's access and use of the Client Portal, at any time, without prior notice.

**11. Term and Termination.** This Agreement and the services contemplated by it may be terminated by either Company or Client with or without cause and with or without notice at any time; provided, however, that the warranty disclaimer in Section 4 and the dispute resolution provision in Section 7 shall survive any termination.

**12. Survival.** Upon termination of Client's access to the Client Portal, in addition to any survival rights which may be expressly provided for herein, any provisions in this Agreement which expressly or by implication are to be in effect after such termination also shall survive. All such provisions shall be binding for such period of time as may reasonably be required in order to give full effect to the intended application of such provision.

**13. Indemnification.** To the extent allowed by applicable law, Client agrees to defend, indemnify and hold harmless Company and any of its directors, officers, shareholders, and employees from and against any and all third party claims and all liabilities, assessments, losses, costs or damages resulting from or arising out of or related to Client's use of the Client Portal, or any breach by Client of any term or condition of this Agreement. If any such action shall be brought against any indemnified party, they shall notify Client in writing and Client shall assume and control the defense and settlement of each such

action, including the employment of counsel and payment of all expenses. Any indemnified party shall have the right to employ separate counsel in any such action and participate in the defense, at their own cost unless otherwise agreed to by Client.

**14. Dispute Resolution.** The parties agree that any dispute between Client and Company relating to this Agreement, or the breach of it, shall, if negotiations and other discussions fail, be first submitted to mediation in accordance with the provisions of the Commercial Mediation Rules of the American Arbitration Association ("AAA") then in effect before resorting to arbitration. The parties agree to conduct the mediation in good faith and make reasonable efforts to resolve any dispute by mediation. Failure or refusal by either party to mediate shall not in any way affect any subsequent arbitration. The parties agree to conduct the arbitration in Denver, Colorado, or other mutually agreed upon location.

If the dispute is not resolved by mediation, the dispute shall be subject to binding arbitration under the Dispute Resolution Rules for Professional Accountancy and Related Service Disputes of the AAA, and judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. The arbitrating shall be heard before one or more arbitrators selected in accordance with these rules. The parties agree to conduct the arbitration in Houston, Texas, or other mutually agreed upon location. The arbitrator may only award actual damages and may not award consequential, exemplary, or punitive damages. The prevailing party in any arbitration or litigation shall be entitled to recover from the other party reasonable attorney and expert witness fees, court costs, fees, and expenses of the AAA, as the case may be, incurred in the same, in addition to any other relief that may be awarded.

Notwithstanding the provisions of the immediately preceding paragraph, neither Company nor Client shall be compelled to arbitrate any dispute between the parties which arises out of or is related to any claim asserted against either party by a third party unless the third party (whether one or more) agrees to join the arbitration and can be compelled to join it.

**15. No Warranties. ACCESS TO THE CLIENT PORTAL AND IT'S CONTENT, PRODUCTS AND SERVICES ARE PROVIDED "AS IS." COMPANY DOES NOT MAKE ANY WARRANTIES OR REPRESENTATIONS, EXPRESSED OR IMPLIED, CONCERNING THE MERCHANTABILITY, QUALITY, NON INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OF THE CLIENT PORTAL OR IT'S CONTENT. CLIENT ASSUMES ALL RISK OF USE. NO WARRANTY IS GIVEN THAT THE SERVICES WILL BE ERROR-FREE, FREE OF VIRUSES OR UNINTERRUPTED. COMPANY IS NOT RESPONSIBLE FOR INVALID DESTINATIONS AND TRANSMISSION ERRORS IN, CORRUPTION OF, OR THE SECURITY OF INFORMATION CARRIED OVER TELECOMMUNICATIONS CARRIERS' OR OTHER PROVIDERS' FACILITIES. THE COMPANY HAS NO LIABILITY FOR FAULTY OR INTERRUPTED COMMUNICATION LINKS.**

**15. Limitation of Liability. COMPANY SHALL NOT BE LIABLE TO CLIENT OR ANY THIRD PARTY FOR ANY DIRECT, SPECIAL, INDIRECT, CONSEQUENTIAL OR INCIDENTAL DAMAGES INCURRED ARISING OUT OF THE USE OR THE INABILITY TO USE THE CLIENT PORTAL, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS.**

**16. Miscellaneous.** This is the entire agreement between Company and Client regarding its subject matter. This Agreement does not modify or affect any existing or future engagement letter or agreement between the Company and Client. If any part of this Agreement is deemed unlawful, void or unenforceable, that part will be deemed severable and will not affect the validity and enforceability of

remaining provisions. The failure of Company to act on or enforce any provision of these Terms shall not be construed as a waiver of that provision or any other provision in these Terms. No waiver shall be effective against Company unless made in writing and signed by Company, and no such waiver shall be construed as a waiver in any other or subsequent instance. This Agreement is made and entered into in the State of Colorado and is to be construed under the laws of the State of Colorado as they may from time to time exist.

IF YOU DO NOT ACCEPT THESE TERMS OF USE, YOU MUST REFRAIN FROM USING THE PORTAL.  
IF YOU CONTINUE TO USE THE PORTAL, YOU WILL BE DEEMED TO HAVE ACCEPTED THESE  
TERMS OF USE. THESE TERMS OF USE MUST BE READ IN CONJUNCTION WITH ANY OTHER  
APPLICABLE TERMS AND WARNINGS GOVERNING THE USE OF THIS PORTAL.