

Standard Services Agreement

This is an agreement between the:

1. Signatory of “Sign Up Today” form which initializes this agreement (the “Client”); and 2. New Media Retailer, LLC of 29 Lackawanna Avenue, Norwich, NY 13815 (“NMR”) and 3. EdMartz, LLC dba Liquid Retailer (“LR”).

In this agreement, the above three entities will be referred to as the “Parties”.

The Client wishes to be provided with the Services offered by NMR and LR, and NMR/LR agree to provide services to the Client based on the terms and conditions of the “Sign Up Today” form, Affiliate Program Prospectus provided to the Client and this document.

This agreement is comprised of three documents. These documents are used for different purposes in the provision of services obtained by Client from NMR. These documents have the following purposes:

1. **“Sign Up Today”**: This is the primary contract form that supplies Name, Company Name and Date of Service as well as a signature for the client requesting services. Stipulations on this document override all directives in the remaining two documents.
2. **Program Prospectus**: The prospectus may have variations to the core pricing, cancellation policy or other matters negotiated by the primary sponsor of the program the client is enrolling in. Stipulations on the prospectus override all directives in NMR’s Standard Services Agreement (this document). The sponsor of the program will be known in this document as “Affiliate” and is further defined below.
3. **Standard Services Agreement** (this document) outlines and provides directives for all NMR/LR service matters not covered or overridden by the other two documents.

For the remainder of this document, the word “Agreement” will be used to collectively refer to all three service documents outlined above.

1.1 Service Goals

NMR/LR is a service agency that provides websites, email, social media, ecommerce functionality and advertising media buying management services to the Client. The details of the service arrangement are enumerated in prospectus files delivered during sales engagements. The terms of services outlined in the prospectus files is negotiated in part by the Client’s brand owner, franchise or cooperative (“Affiliate”), and NMR is agrees to maintain strict adherence to the terms and conditions outlined in that prospectus.

For more information regarding specific program details, please refer to the program prospectus, “Sign Up Today” form or contact your customer service representative, NMR Specialists or program administrator for more details.

NMR/LR sometimes develops core programs in partnership with Affiliates that consist of basic templates for displaying information on the web, in email marketing, on Facebook, on Twitter and other media (“Client media services”). This establishes a clear brand strategy for the Client who will use the templates to create a presence across online media.

These Client Media Services include but are not limited to web merchandised product data, Shopify website templates, email marketing templates, social media images, post templates, blog articles, graphics, digital ads, Shopify platform applications and stock images.

NMR/LR will assist the Client in establishing Client media services which become the platform for delivering specific content to the Client’s consumers. This setup period is known as Initiation of Services (“onboarding”).

Once Client media services have been established, monthly contact by NMR/LR with the Client will assist NMR/LR in the development of content that will be used to create a monthly brand messaging plan. This phase is called Monthly Services.

The content and messaging created from Client content, including events, coupons, careers, print advertising, product information and the like will be communicated in various forms to consumers through Client media services.

The goal is to maintain consistent messaging across all online media where the Client’s consumers may attempt to find the Client. NMR strives to assist small to medium sized business modernize their promotional methods to compete more effectively in local markets.

1.2 Initiation of Services: Signup

NMR shall provide the following services (“Services”) to the Client in accordance with the terms and conditions of this Agreement:

Once introduced to a program (Program Prospectus), appropriate sign-up contracts have been signed (“Sign Up Today”), and payment terms have been met – work on the Client’s account begins immediately. NMR will provide the Client with a profiling worksheet that allows us to gather information on the Client’s organization. The information gathered is then used to create a number of Client media services for the Client including, but not limited to, a website.

The setup process for NMR’s services can take up to 120 days depending on the ability of Client to provide required information back to NMR - and no less than 30 days. The following are materials that are required for the setup process.

1. Profiling Worksheets will be filled out by Client and returned to NMR.
2. NMR requires graphical elements, text copy and other creative materials including but not limited to logos, business photographs and business history for presentation in various Client media services. NMR can assist in the writing and creation of copy and graphical elements for additional fees.
3. Various web accounts will need to be created as a part of the setup process including accounts with, but not limited to, MailChimp, Shopify, Google, Facebook and/or Twitter, Instagram, Google Merchant Center, Google Ads Accounts, Facebook Business Manager depending on the service profile. These types of accounts will hereafter be known as “web services”.

4. Web Service information created for NMR programs must be communicated to NMR/LR before service with that specific account can begin. The information to deliver regarding these web services may include usernames, passwords, profile account numbers, API keys and other service identification markers. Without this information, NMR/LR will not be able to maintain accounts on the Client's behalf.
5. To furnish the Client with a functioning web merchandised ecommerce website on Shopify, NMR/LR requires delivery of accurate information regarding the Client's in-store product information. Client agrees to deliver a complete, accurate CSV file that includes 12-digit or 10-digit Barcodes/UPCs and Retail Price of their in-store products. Failure to provide accurate and complete information may result in the inability of NMR/LR to fulfill timely and/or accurate delivery of a web merchandised online catalog for the Client.

Instructions for creating web service accounts are provided by NMR.

6. Client is required to have a website domain name that will be assigned to the website produced by NMR on the Client's behalf. In addition, Client is responsible for managing DNS settings that point the domain name to the Client's NMR produced website. Instructions for purchasing and managing domain names are provided by NMR.
7. NMR/LR may create and launch a new Shopify Account for the Client ("Client Shopify Account"). The Client Shopify Account will be launched using the NMR/LR Shopify Partner account. NMR/LR will retain ownership of the Client Shopify Account for the first 12 months of service. After which, the client may request ownership of the Client Shopify Account. Ownership of the Client Shopify Account does not constitute ownership of licensed materials known as the Client Media Services, including but not limited to, the Nucleus template, merchandised product data, proprietary Shopify applications, images and proprietary blogs. Content, merchandised product data, templates and Shopify apps provided will remain the property of the content supplier NMR/LR. For further details on licensed proprietary intellectual property and cancellation policies please refer to section 2.1.

Service and Billing Notices:

1. Failure to pay bills issued during the setup period can result in an automatic cancellation of service by NMR.
2. Failure to deliver required content or account information can significantly delay production – even beyond the 90-day setup period. If this occurs, NMR reserves the right to cancel the client's account.
3. Failure to provide content or approvals does not suspend billing or payments due unless the account is formally cancelled which may result in cancellation fees.
4. While delivering the above information to NMR is the responsibility of Client, NMR will endeavor to assist in these matters where possible.

The goal of acquiring this information is to produce a number of Client media services depending on the services indicated in the Program Prospectus and "Sign Up Today" form.

Those media may include but are not limited to:

1. Client Website

2. Client Email Marketing Services
3. Client Facebook Business Page
4. Client Twitter Profile for Business
5. Client Shopify Website
6. Client Online Catalog
7. Client Google Ads
8. Client Facebook Ads
9. Client Google Merchant Account
10. Client Facebook Shops Page
11. Client Unbounce Landing Page Account
12. Client MailChimp Account

The above Client media services are NOT always initialized at the same time. There are circumstances that may require various web services to be activated after other services have been in use for some time. Those reasons may include synchronizing information delivery with affiliate program content or specialized introduction of new Client services in conjunction with established marketing programs.

1.3 Monthly Services

NMR/LR Marketing Specialists and/or Ecommerce Administrators will attempt to contact Client every 10 to 20 business days to discuss upcoming promotions, events and other marketing items as defined by the affiliate program. This updated information is required to continue engaging Client's customers and keep published material as current as possible on NMR/LR produced media. It is the Client's responsibility to provide these updates to NMR.

In addition, Client will be responsible for the proofing of material and signing-off on production where appropriate. Failure to approve and/or deliver content may result in missed updates, unpublished materials (mass market emails, Facebook posts, Twitter Tweets, product and pricing updates, graphics changes, etc.) and unedited materials.

Services and Billing Notices:

1. Monthly Updates must be sent to NMR no later than the 15th day of the previous month. Ex. January updates must be submitted by the 15th of December.
2. Failure to deliver required promotional content can significantly delay production and posting of submitted materials.
3. Failure to provide content or approvals does not suspend billing or payments due unless the account is formally cancelled which may result in cancellation fees.
4. While delivering the above information to NMR is the responsibility of Client, NMR will endeavor to assist in these matters where possible.
5. Once received, NMR will load monthly promotional content and information updates to appropriate Client media services within 5-10 business days.

The next section outlines information required, describes use of information and implementation of Client media services.

1.4 Services Descriptions

Once Client media services have been initialized, NMR will attempt to contact the Client monthly to understand upcoming promotional and information update needs. Client media services will be the vehicle for presenting that information. Monthly content delivered to NMR should be promotional and informational in nature. The following are items that may be promoted through basic services.

Events: These are actual occurrences that have a start date and an end date, such as a Sales Event or an In-store Seminar. We will add up to 10 events to the Client's message profile for that month.

Coupons/Specials: These are a specific form of promoting available specials that are available in your store. We will add up to 10 coupons/specials to the Client's message profile for that month. Coupons/specials can also be targeted to specific Client media (web only coupon, email only coupon, Facebook only coupon).

Careers: These are open positions at Client's business that require promotion. We will add up to 10 open positions to Client's message profile for that month.

Circulars and Weekly Ads: NMR will provide a link to a "page- flip" circular (multiple pages) and will provide links to JPG or PDF weekly ads (one page). This service is not provided by all programs, and other limitations may apply. These materials are not produced by NMR. NMR will only display them on the appropriate media.

Blogs: NMR will post up to (2) blog articles per month. Content provided will remain the property of the content supplier. See Intellectual Property Rights in section 2.1 for more details.

Template/Theme: NMR/LR will license a proprietary theme/template to the Client while the Agreement is active. Template/Theme provided will remain the property of the content supplier. See Intellectual Property Rights in section 2.1 for more details.

Shopify: Shopify is a third-party platform not owned or controlled by us. By entering this Agreement you are choosing NMR/LR as the vendor for providing Client media services for the Client on this third-party platform.

Shopify Applications: NMR/LR may license proprietary apps including but not limited to Mortar, Catalyst, Liquid Delivery and/or Filterize while the Agreement is active. NMR/LR proprietary Shopify applications licensed for use under this Agreement are the property of NMR/LR and are available for license/use by the Client at the sole discretion of NMR/LR. Changes or termination of this Agreement may result in the unavailability of use of these proprietary apps by the Client. See Intellectual Property Rights in section 2.1 for more details.

Liquid Delivery App: This proprietary Shopify application creates delivery rates based on zip codes. This is not customizable software and there may be limitations to customization of rates and checkout options. This app requires enabling of Shopify Carrier Calculated Shipping at a rate set by Shopify. Speak with your Ecommerce Administrator for details on the functionality of this application.

Mortar App: This proprietary Shopify App creates services, departments, offers, locations, events and careers pages with a Content Management System for ease of content management and updates. Limitations to the formatting and display of content for these pages may apply.

Products: Product Catalogs are provided if granted by the affiliate program and can be displayed on

Client's website. Products are delivered to NMR by the Client. Products have the following general restrictions:

Informational Product Catalog on Samurai

- a. Up to 12 products per month can be added to the Client product catalog at no additional cost. Additional products added to the catalog may require additional fees, depending on content provided and amount of additional products requested.
- b. There is no limit to the number of products that can be added to product catalogs over time as long as the 12 product per month guideline is observed.
- c. If the product cannot be found, Client may be asked to supply the necessary information for the product including appropriate descriptions, photos and manufacturer data.

Product Flags: Some products require additional promotion under specific circumstances. Product flags are records that indicate whether a product is featured or discounted.

- a. **Featured Products:** A featured product is one that gets special visibility in the product catalog as displayed to consumers through a Client's website. Featured products are assigned by date ranges and these feature records will expire automatically.
- b. **Discounted Products:** These products are marked as having a specific discount for a specific period of time. Discounted products also get special visibility in the product catalog as displayed to consumers through a Client's website.

Ecommerce Product Catalog on Shopify

1. Web merchandised product catalogs will be added to the Client's Shopify site based on the provision of accurate, complete POS exports of the Client's UPCs and Prices in the form of a CSV file.
2. NMR/LR maintains an online product database known as Catalyst. The UPCs provided by the Client are used to deploy products from Catalyst to the Client website.
3. The UPCs carried by the Client may not be available and maintained in Catalyst. Client UPCs that did not match the database will be available in the form of a report referred to as a Did Not Match report. NMR/LR makes no claims, promises, warranties or guarantees that the UPCs in the Did Not Match report will be made available in Catalyst and therefore may not be available for the Client's Shopify site.
4. Client is responsible for the accuracy of retail prices provided to NMR/LR.
5. NMR/LR will accept Client POS exports via manual transmission (email or similar transmission format) or via the NMR/LR SFTP server.
6. Client is submitting POS exports via manual transmission, there is a limit to up to 1 submission/upload per month for live sites. There is a limit of 1 submission/upload during the Onboarding process.

7. The Client will not have access to the product catalog section of Client Shopify site unless the Client has signed a waiver releasing NMR/LR from liability due to changes made within the Client Online Product Catalog. Any changes made to catalog by the Client may result in irreconcilable errors within the online product catalog. NMR/LR is not liable for errors introduced to Online Product Catalog by the Client and will not be responsible for resolving said errors. In the event of such issues, NMR/LR may delete Client Online Product Catalog and re-initialize the catalog connection to Catalyst. NMR/LR is under no obligation to resolve Online Product Catalog issues after the Client has signed the release and been granted access to the Online Product Catalog in Shopify.
8. The Client should only add noncommercial or locally sourced products to their Online Product Catalog. Clients are strongly discouraged from adding web merchandised product information to their site as this may cause product duplication upon future imports from Catalyst.
9. Additional products or custom requests may require additional fees, depending on content provided and number of additional products requested.
10. Client may occasionally be asked to supply the necessary information for the product including appropriate descriptions, photos and manufacturer data.
11. Web ready merchandised product information provided by NMR/LR will remain the property of the content supplier. See Intellectual Property Rights in section 2.1 for more details.

The above materials will then be delivered to various media as designated in this Agreement. The above material may be communicated through Client's website, email campaigns, digital advertising platforms and/or social media communications. This method keeps content fresh monthly and allows Client's customers to identify important product and purchase information that may be relevant to their needs.

Not all of the above information will be required in all situations. Affiliate programs can override the available program features and required monthly information. In addition, NMR/LR does provide other services beyond this base set that can provide more features to Client media services at an additional cost. Please see program prospectus for details and program limitations. Discuss other program options with your NMR Specialist or Ecommerce Administrator.

How Updates will be used: NMR/LR provides four categories of service; Website, Email, Digital Advertising and Social Media Services. The extent of these activities is specified in the Sign Up Today, Prospectus and the Standard Service Agreement. Promotional items delivered to NMR/LR via the Client will be distributed across the various media creating a monthly messaging strategy for the Client.

Basic Website Features: Each website produced through an NMR/LR program starts with a number of basic pages. Descriptions and features may vary from program to program. These descriptions are general and actual features will be presented as a part of the affiliate program prospectus.

- a. Home Page: General summary of promotional content including information regarding events, coupons, careers, circulars, weekly ads, blogs and flagged products where applicable. Generally, there are also indications of location specific information, hours of operation and an email sign-up form.
- b. About Page: This is an opportunity for the Client to provide history and services information for general consumption.

- c. Events: A display of all upcoming events
- d. Locations: Display of all Client locations with Google map
- e. Careers: List of open company careers
- f. Special Offers: Lists of available untargeted and web targeted coupons
- g. Contact Us: A simple contact form allowing consumers to contact Client's company
- h.

Products: Searchable product directory.

Features May Include:

- a. Product keyword searches
- b. Category filtering
- c. Category based breadcrumbs
- d. Featured products
- e. Discounted products
- f. Multiple photos per product
- g. Several descriptions that help with SEO targeting and commercial intent on the website

Blog Library

- a. Blogs listed by Categories and Date of Posting

Web Pages

- a. Departments: General summary of various departments inside your store. A listing page and individual department page will be available based on content provided by the dealer.
- b. Services: General summary of various services provided by your store. A listing page and
- c. individual service page will be available based on content provided by the dealer.
- d. Meet the Team: This is an opportunity to introduce your staff online. A listing and individual
- e. staff page will be available based on content provided by the dealer.
- f. Testimonials: Showcase testimonials provided by the customer. These will be manually added based on content provided by the dealer.
- g. Frequently Asked Questions: A display of questions and answers for consumer benefit available with content provided by the dealer.

Basic Email Features: NMR will manage an email list for customers through a service known as MailChimp or Shopify Email. Emails will be sent twice per month to that entire email list. The two emails sent monthly are known as Company News and Company Blog.

- a. Company News: These emails are comprised of a top-level graphic with a top-level message. Client events, coupons, careers, circulars and weekly ads will appear in these emails automatically. These emails are designed to outline important promotional content.

- b. Company Blog: These emails are comprised of a top-level graphic with a top-level message. Blogs recently posted to Client's website will be listed automatically along with any Product Flags. These emails are designed to outline important industry specific information to show consumers that Client is a knowledge resource in this area of interest and highlight Product Flags.

Basic Social Media Features: Facebook and Twitter are the most common vehicles for distributing content through NMR/LR services. While the two services vary in audience and scope of content, these services are used for carrying industry related and store specific content. These medias will be used to carry the same promotional content as web and email in various forms, in addition to an affiliate based social media calendar consisting of industry related content.

Customization of Promotional Materials:

Customization is any alteration of the above media that is not provided or listed above. Customizations that are not listed as a part of the base affiliate program is a customization of service and requires affiliate approval. Once approved, customizations may result in additional fees.

Examples of customization:

- Additional content added to template pages
- Additional pages added to template sites with specific information
- Added content in emails
- Design customization including color changes to template layouts

Service Note

NMR/LR Marketing Specialists and Ecommerce Administrators are only responsible for the ongoing upkeep, maintenance, hosting and management of items explicitly stated in the Sign Up Today form, program prospectus or Standard Service Agreement. Updates, investigations, support tickets and communication may require 7-10 business days turnaround time.

NMR/LR will make every reasonable step to maintain, troubleshoot and manage updates related to its own proprietary marketing technologies.

NMR/LR may employ third-party technologies and platforms as part of this agreement including but not limited to:

- Shopify
- Shopify App Store: Third-Party Apps
- POS to Shopify Third-Party Middlewares and FTP Servers
- Google Ads Platform
- Facebook Ads Platform

Third-party platforms are completely owned by third-party technology companies. NMR/LR makes no claims to own or control these platforms. NMR/LR is not responsible for third-party compliance, decisions, service interruptions or other unforeseen or seen circumstances related to third-party technologies.

The Client may choose to utilize third-party technology, for example third-party Shopify apps, on their online store. The NMR/LR Marketing Specialists and Ecommerce Administrators are not responsible for maintenance or management of such applications.

1.5 Payment

Billing schedules are initiated within one to two weeks of signing the “Sign Up Today” service initiation contract. Payments due NMR/LR are not contingent on whether final services have been rendered, but rather when NMR has started building and performing services for Client. That is to say that websites or other media created on behalf of the Client do not need to be live in order for bills to be sent. Billing and payments should be expected once NMR begins the extensive and laborious process of creating defined media content for Client.

Billing Terms:

- Client agrees to pay the Price stipulated in this agreement.
- Monthly Fees already paid for work pursuant to this Agreement are non-refundable Monthly Payments must be made prior to receiving services for that month.
- Billing terms are NET 21. Bill payments are due within 21 days of billing date set on invoices.
- Services will be suspended for Client accounts 60 days or more overdue and will be reinstated after accounts are made current.
- Any charges payable under this Agreement are exclusive of any applicable taxes, tariff surcharges or other like amounts assessed by any governmental entity arising as a result of the provision of the Services by NMR to the Client under this Agreement and such shall be payable by the Client to NMR in addition to all other charges payable hereunder.
- Client can speak with customer service, NMR specialists or program administrators to clarify billing question.
- Credit, billing corrections and other billing errors made by NMR will be updated in the following month’s billing statement.
- Client may be invoiced by the NMR Accounting Department via email or traditional mail dependent on client preference. Payments can be made to NMR by credit card or check at the following address: New Media Retailer 29 Lackawanna Ave. Norwich, NY 13815

1.6 Price

Monthly fees, customization fees and other costs to the Client are negotiated as a part of affiliate programs. The payment model for the Client is determined by the corresponding affiliate program. For current pricing models, please see program prospectus.

Other Applicable Fees:

General Web Customization Fees: These fees will accrue when a change to a web template is required, when additional web pages beyond those provided are required and/or specialized messaging is required on any web page.

- Custom Graphic Design/HTML Coding: \$70/hour
- Programming: \$120/hour

General Email Customization Fees: These fees will accrue when a change to the template is required, when additional emails beyond those provided are required and/or specialized messaging is required on any email message.

- \$75 per email for composition of text, artwork and production of email message

Email List Management Fees: Email list above 2,500 email addresses, will be charged additional monthly fees. This fee is applied by MailChimp, not New Media Retailer.

For MailChimp list management fees please visit mailchimp.com or ask your Marketing Specialist.

Additional Circulars and Weekly Ads: Additional circulars not created by Circulars Unlimited can be turned into an online "flip book" and posted for \$10 per page.

1.7 Cancellation Policy

By signing and participating in an NMR provided program, Client agrees to participate in this program for no less than a 12 month period from the signing date on the Sign Up Today contract. Pricing and program guidelines are based on a 12 month program and participation schedule. Early cancellation will require a \$500 fee to be paid in full before cancellation can be processed. Cancellation after the initial 12 month period will be processed on the last day of the cancellation month. Cancellations require at least 30 days notice in writing. Program provisions as negotiated with affiliate groups can override this policy.

1.8 Limitation of Liability

- a. NMR is not monetarily responsible for typographical errors or presentational inaccuracies displayed on client media services. NMR will make every effort to correct the presented errors at Client's request or when encountered through normal review, but NMR is not monetarily responsible for these inaccuracies.
- b. Subject to the Client's obligation to pay the Price to NMR, either party's liability in contract, tort or otherwise (including negligence) arising directly out of or in connection with this Agreement or the performance or observance of its obligations under this Agreement and every applicable part of it shall be limited in aggregate to the cost of 1 years' service price.
- c. To the extent it is lawful to exclude the following heads of loss and subject to the Client's obligation to pay the Price, in no event shall either party be liable for any loss of profits, goodwill, loss of business, loss of data or any other indirect or consequential loss or damage whatsoever.
- d. Nothing in this Clause 2.3 will serve to limit or exclude either Party's liability for death or personal injury arising from its own negligence.

2.0 General Terms

2.1 Intellectual Property Rights

- a. NMR/LR, in no way owns or claims to own Client or Affiliate provided content. Content including graphics, text copy and other materials are solely the property of the content supplier.
- b. In respect of the Material specifically created for the Client as part of the Services, NM/LR assigns no guarantees to the Client of the copyright, other intellectual property rights and any other data or material used or subsisting in the Material whether finished or unfinished.
- c. Affiliates grant specific presentational access of affiliate supplied material to Clients registered in that affiliate's program. Licensing of that material is limited to the presentational use of that content when delivered to client.
- d. If any third-party intellectual property rights are used in the Material, NMR shall take reasonable steps to secure all necessary consents and approvals to use such third party intellectual property rights for the Service Provider and the Buyer. The Client assumes full liability for licensing permissions for intellectual property used in representative materials published on the Client's online presence.
- e. NMR/LR will often produce and allow access to material owned by NMR to client. NMR/LR grants specific presentational access of this NMR/LR owned material to clients. Licensing of that material is limited to the presentational use of that content when delivered to client. These materials may include graphics, Shopify apps, Shopify templates including the Nucleus Template, web ready merchandised product catalogs for Shopify, blogs, or other materials created for affiliate programs or client media services. This content is owned by NMR/LR and licensed to Client. Client has no claims to ownership of these client media services including template, product catalog and Shopify apps that Client is allowed to access, utilize and deploy to Client site under this Agreement.
- f. NMR's internal workflow processes are a trade secret and not subject to disclosure should Client become privy to these processes under the terms of this Agreement.
- g. Content provided through client media services on behalf of Client are produced specifically for the media in which they are displayed or presented. In addition, content displayed or presented through client media services are accumulated through multiple content sources. Use, duplication or modification of these materials, including product catalog data, templates or proprietary applications is strictly prohibited unless:
 - a. NMR has explicitly created material in question for the client and material is not linked to some other content source under other ownership
 - b. Content supplier grants reuse of content to client, in writing as proof of consent. Once this proof is provided to NMR, NMR will release the material
- h. In the case of a content ownership dispute, Client or Affiliate must provide reasonable proof that the content belongs to that party. Otherwise, NMR records will be used to determine the owner.
- i. For the purposes of this Clause 2.1, "Material" shall mean the materials, in whatever form, used by NMR to provide the Services and the products, systems, programs or processes, in whatever form, produced by NMR pursuant to this Agreement.

- j. Third Party Software & Applications. Pursuant to fulfillment of Client media services in this Agreement, NMR/LR may use third-party applications including but not limited to Shopify, Lightspeed, Shopify Apps, Data Integrators for Google Shopping, MailChimp, Constant Contact, Facebook Sales Channels, Modern Retail or SFTP Servers. NMR/LR bears no responsibility for the performance, accessibility, legal compliance or data protections afforded by such technology platforms. The Client is responsible for oversight and compliance of all aspects of their website and Client Media Services, including oversight of third-party technology, and alerting NMR/LR to the need for removal of any third-party technology resources deemed unwanted, unnecessary or non-compliant according to the needs and requirements of the Client. Content, terms and functionality of third-party applications are considered the intellectual property of corresponding third-party company and NMR/LR makes no claims or assignments of intellectual property or access rights to third-party technology to the Client except as set by the terms of service of each third-party entity.

2.2 Warranty

NMR represents and warrants that:

- a. It will perform the services with reasonable care and skill.
- b. The Services and the Materials provided by NMR to the Client under this Agreement are not intended to infringe or violate any intellectual property rights or other right of any third party.
- c. Materials provided to NMR by the Client under this Agreement will not infringe or violate any intellectual property rights or other right of any third party.

2.3 Accessibility

NMR/LR is constantly working to improve accessibility of version 2/3 websites of its website platform on Samurai and the implementation of the Nucleus theme and Mortar Shopify Application on Shopify.

We use the WAVE Chrome Accessibility Extension to test your website for accessibility compliance when your website is pushed live. The WAVE tool is an automated accessibility testing tool. Automated testing tools cannot ensure complete compliance with WCAG 2.1 Accessibility guidelines.

NMR/LR is not an accessibility software nor do we specialize in ADA compliance. Websites built on Samurai or Shopify may use third-party technology or widgets that may introduce elements without necessary accessibility features. NMR/LR does not manage or vet third-party technologies for accessibility compliance.

NMR/LR has partnered with Accessible, a fully automated Web Accessibility Solution for ADA & WCAG Compliance. We recommend their services to all of our clients.

Accessible Contact Information:

Website: <https://accessible.com/>

The Client is responsible to ensure that content it supplies, applications it uses and widgets it uses on the its site are accessible and that their website meets any applicable state, local or federal legal requirements for accessibility features.

Any questions or inquiries concerning the accessibility of the NMR/LR marketing technologies can be addressed to:

Katherine Dawson
Customer Service Manager
607.337.3064
kdawson@newmediaretailer.com

Keegan Edwards
President/CEO
954-361-5284
kedwards@newmediaretailer.com

Policy Review

New Media Retailer, LLC, its affiliates and subsidiaries are entitled to update and amend this agreement at any time.

2.4 Terms and Termination

This Agreement shall be effective on the date provided on the "Sign Up Today" form. This Agreement can be terminated sooner in accordance with the Cancellation Policy at Clause 1.7 or with Affiliate Program Policy provided in the Affiliate Program Prospectus.

Other Causes for Termination:

- a. NMR can terminate this agreement with Client in the event that the client is non-responsive in the setup period for more than 60 days
- b. NMR can terminate this agreement with Client for non-payment after 60 days from last payment made.
- c. One of the Parties is in breach of this Agreement and the breach is not remedied within 30 days of written notice from the other party
- d. A voluntary arrangement is approved between NMR and the Client for circumstances not covered in this agreement

Materials to be returned from NMR/LR for Samurai Clients:

- a. All images and other materials supplied by the Client will also be returned.
- b. All account information including web service account usernames, passwords, API keys and other identification information required for the continued management of web services
- c. Email Templates and HTML used for previous email communications will be available in the archive of the web service used to manage client email (i.e. MailChimp, Shopify Email)

After termination of the Agreement and materials described above are returned, the website on Samurai will be shut down and immediately removed from NMR servers.

Process for termination of service of Shopify Client:

- a. **Nucleus Template.** Client will be granted 15 days to replace the Nucleus template with a new Shopify theme of their choosing. After 15 days since the notification of cancellation, NMR/LR will remove the Nucleus template from the Client Shopify account.
- b. **Online Product Catalog.** Client will be granted 15 days to remove Online Product Catalog supplied by NMR/LR. After 15 days, NMR/LR will delete Online Product Catalog supplied by NMR/LR. Product catalog entered into Client site by Client will not be removed. NMR/LR will use our product tagging mechanism for identification. If NMR/LR tags are found to be altered or removed to subvert this process the entire Client Online Catalog will be deleted.
- c. **Mortar App.** Client will be granted 15 days to port content from Mortar driven web pages to alternate Shopify pages or third-party driven content management solutions. After 15 days, the Mortar App will be removed from the Client Shopify account.
- d. **Liquid Delivery App.** Client will be granted 15 days to replace the checkout rates solution provided by Liquid Delivery. After 15 days, NMR/LR will delete the Liquid Delivery App from the Client Shopify account.
- e. **Shopify Billing.** Client will be granted 15 days to supply NMR/LR with a credit card to pay for Shopify licensing fees directly. NMR/LR will replace our credit card on file with Shopify with the Client credit card.
- f. **Shopify Account Ownership Transition.** After the removal of Nucleus Theme, Online Product Catalog, Mortar App, Liquid Delivery App and replacement of Shopify form of payment are complete, NMR/LR will designate the Client Shopify User Account as the Owner of the Shopify Account.

2.5 Relationship of the Parties

The Parties acknowledge and agree that the Services performed by NMR/LR, its employees, agents or subcontractors shall be as an independent contractor and that nothing in this Agreement shall be deemed to constitute a partnership, joint venture or otherwise between the parties.

2.6 Confidentiality

Neither Party will use, copy, adapt, alter or part with possession of any information of the other which is disclosed or otherwise comes into its possession under or in relation to this Agreement and which is of a confidential nature including but not limited to knowledge of internal processes, systems, procedures and trade secrets. This obligation will not apply to information which the recipient can prove was in its possession at the date it was received or obtained or which the recipient obtains from some other person with good legal title to it or which is in or comes into the public domain otherwise than through the default or negligence of the recipient or which is independently developed by or for the recipient.

2.7 Notices

Any notice which may be given by a Party under this Agreement shall be deemed to have been duly delivered if delivered by hand, first class post, facsimile transmission or electronic mail to the address of the other Party as specified in this Agreement or any other address notified in writing to the other Party. Subject to any applicable local law provisions to the contrary, any such communication shall be deemed to have been made to the other Party, if delivered by:

- a. First class post, 2 days from the date of posting

- b. Hand or by facsimile transmission, on the date of such delivery or transmission; and Electronic mail, when the Party sending such communication receives confirmation of such delivery by electronic mail

2.8 Indemnification

Client shall defend and indemnify NMR and its directors, officers, and employees, and stockholders. (collectively, "Indemnified Parties") from and against all third party claims, actions, suits, demands, damages, obligations, losses, settlements, judgements, costs and expenses (including without limitation reasonable attorneys' fees and costs) ("Claims") which arise out of or relate to (1) death or bodily injury or (2) loss of or damage to property resulting from any negligent act or willful misconduct of NMR except to the extent that such Losses result from, in whole or in part, the unlawful acts of the Indemnified Parties or any other person acting in concert with them. In no event shall NMR be liable for any consequential damages or lost profits under this Indemnification clause, regardless of the legal theory under which such damages are sought, and even if it has been advised of the possibility of such damages.

2.9 Miscellaneous

- a. The failure of either party to enforce its rights under this Agreement at any time for any period shall not be construed as a waiver of such rights.
- b. If any part, term or provision of this Agreement is held to be illegal or unenforceable, neither the validity nor enforceability of the remainder of this Agreement shall be affected.
- c. Neither Party shall assign or transfer all or any part of its rights under this Agreement without the consent of the other Party.
- d. This Agreement constitutes the entire understanding between the Parties relating to the subject
- e. matter hereof unless any representation or warranty made about this Agreement was made fraudulently and, save as may be expressly referred to or referenced herein, supersedes all prior representations, writings, negotiations or understandings with respect hereto.
- f. Neither Party shall be liable for failure to perform or delay in performing any obligation under this agreement if the failure or delay is caused by any circumstances beyond its reasonable control, including but not limited to acts of god, war, civil commotion or industrial dispute. If such delay or failure continues for at least 7 days, the Party not affected by such delay or failure shall be entitled to terminate this Agreement by notice in writing to the other.
- g. This Clause 2.8(g) and Clauses 2.3, 2.5, 2.6, 2.7 and 2.8 of this Agreement shall survive any termination or expiration.
- h. This Agreement shall be governed by the laws, governing bodies and courts in the jurisdiction of New York State.