

# Mark Hartman

## COMPUTER SOLUTIONS

### ENGAGEMENT LETTER

In this letter, first-person references such as "I," "me," "we," "us," "mine" and others refer to Mark Hartman Computer Solutions, a sole proprietorship. Second-person references such as "you," "your" and others refer to the recipient of this letter. References to "each of us" or similar indicate both you and me.

The purpose of this letter is to explain the terms and conditions under which I provide services to you. By engaging my services after reading this letter, or by continuing to use my services thereafter, you expressly consent to the terms of this letter as applying to all services rendered to you by me, and you understand that if you do not so consent that I am unwilling to provide services to you. Each of us agrees that the terms of this letter supersede conflicting terms of any previous or contemporaneous agreement between us, regardless of how that agreement was entered into.

The essence of my service to you is my expertise made available to you at your request for a certain amount of time, for which you agree to pay a certain hourly rate. This hourly rate assumes that you will pay me at the time I provide my services to you. You understand that: additional charges may apply if I must bill you, or if I am not paid at the time I provide my services to you; that these additional charges may be billed separately; and that these additional charges may vary based upon the amount of time that elapses between the time of service and the time of payment.

I will not accept consulting engagements, nor consulting assignments, nor any other kind of work, which involve products, services, or events which would be deemed unacceptable by the Catholic Church, and you understand and agree that, regardless of past assignments which I may have accepted, that this clause remains operative throughout the life of our relationship. You agree that you have no objection whatsoever to this clause, and that you renounce any legal action or damages of any kind, under any legal theory whatsoever, as a result of the terms of this paragraph, and that you waive any statutory or regulatory provisions which conflict with this paragraph.

I will do my best to estimate how long individual tasks will take. However, you understand that there are many unknowns, and that the estimates I provide to you are not binding. You may direct that I stop work after a certain amount of time, and I will accept such direction; however, regardless of if any task or tasks remain incomplete at the expiration of that time, you understand that this does not affect your obligation to pay my charges for the time spent. Unless a separate written agreement to the contrary exists, there is no guarantee that the time I spend providing services to you will produce any particular results, nor accomplish any particular goals.

I do not sell hardware, packaged software, or other commercially-available products ("third-party products"), and therefore if you ask me to acquire third-party products for you, I do so as your agent, and you agree to reimburse me for my expenses related to such purchases upon request, and each of us agrees that your reimbursement to me does not constitute a sale. Moreover, I do not offer any warranty whatsoever for any third-party products, regardless of whether I recommend that product to you or to anyone else, and my time spent dealing with them on your behalf is chargeable as any other billable time.

The time for which you pay me is not restricted to the time spent at your location, but includes any time that I am actively working on tasks for you, including without restriction programming, analysis, conferences, teleconferences, acquisition of third-party products, travel time, and any other time spent by me and/or my personnel on your behalf. In addition, you agree to reimburse any travel expenses I necessarily incur, and that I may set a minimum charge per visit to your location or to other sites where it is necessary for me or my personnel to travel.

If I develop products for you during my services, each of us grants to the other a full unrestricted license for their use and duplication anywhere, including but not restricted to the right of sublicensing those products to the extent that will not infringe on the rights of each of us, without further compensation or obligation, saving only that my copyright notice must appear on the software and on any of its derivative works; for the purposes of copyright and patent registration, I am the owner of the product. However, in the case of products that incorporate your proprietary business methods or trade secrets, I agree to refrain from making those specific parts of the products available to others without your specific and separate written permission.

You understand that the services I perform may result in loss of data from your computer systems or other hardware, software or devices. You agree that the safeguarding of important data by means of backup or other method is your sole responsibility, and you agree that I will have no liability to you for any data loss in any way connected with my services.

Each of us agrees that information identified as "confidential information" shall not be revealed to any other party except as strictly necessary in the course of the work performed, and that other parties to which the information is to be revealed shall agree similarly to hold the information confidential before such revelation. Information which is in the public domain or which is independently developed shall not be considered confidential.

(more)

You understand that I have multiple clients, and that because of this I schedule my time to provide the best possible service to all my clients. Because of this, and because each of us agrees that there is no employment relationship between you and me, you agree that, in the absence of specific written agreement to the contrary, you have no expectation that I will spend full time, or any specific hours, on tasks for you except as necessitated by the nature of the tasks, or that I will perform any task in any specific manner or that I will be required to hire any particular person in order to accomplish it.

If you are not an individual, you will designate one or more individuals who have the authority to assign tasks to me, and you agree that my charges for such tasks will be paid. If you do not so designate, you agree that I may rely on, and you will be bound by, the representation of persons who would reasonably have such authority.

Each of us agrees that any disputes which cannot be settled by amicable discussion will be settled by arbitration under the rules of the American Arbitration Association, at a location within San Diego County, California, that the decision of the arbitrator will be binding, and that the losing party will bear the costs of the arbitration. However, you agree that my liability for any and all purposes, excluding willful misconduct, shall be limited to the total amount paid by you to me over the seven days preceding the cause of action.

I may accept partial payments of my invoices, and you agree that in so doing I will not be bound by restrictive endorsements or other legends which purport to modify invoices, reduce amounts billed to you by me, or change the terms of this letter, and you specifically disclaim any such restrictive endorsements or legends. If payments tendered by you are returned unpaid for any reason, you agree that I may impose a fee per returned item of \$50, or the maximum allowed by applicable law, whichever is less, in addition to the fees imposed on me by financial institutions in relation to that payment, and that my time spent handling and pursuing payment of such returned items is billable to you as any other time spent on your behalf.

You agree that you will pay any and all taxes, except income taxes, imposed or assessed because of the services I perform for you, including but not limited to sales or use taxes. Unless specific statutes require me to be considered your employee, each of us specifically agrees that I am not your employee, and as a non-employee I will be responsible for any taxes or penalties assessed by reason of any other claims that I am your employee.

The hourly rate for my services will be disclosed to you in advance of the services being provided, and I may change this rate for future services upon ten days verbal or written notice.

I may change the terms of this letter by posting the changes to my web site (mymacguy.com), and you agree that such changes shall replace conflicting terms of this letter as of the date of posting.

Should you have any questions concerning the terms of this letter, please feel free to contact me.

Very truly yours,

MARK HARTMAN COMPUTER SOLUTIONS



Mark Hartman  
Proprietor

I acknowledge receipt of a copy of this letter, and agree to its terms and conditions.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Phone number

\_\_\_\_\_  
Printed name

\_\_\_\_\_  
E-mail address

\_\_\_\_\_  
Date