

WEB HOSTING

Carefully read the following terms and conditions of this agreement. By accessing and using the web hosting and electronic commerce services and associated software of "SKYBEAM", you ("Customer") indicate the acceptance of the following terms and conditions and you agree to be bound by them. IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, DO NOT ACCESS OR USE THE SKYBEAM WEB HOSTING DOMAIN REGISTRATION, OR ELECTRONIC COMMERCE SERVICES or associated software and promptly return the complete package including any software to SKYBEAM.

This agreement constitutes the complete and exclusive statement of the agreement between you and SKYBEAM with respect to the SKYBEAM web hosting and electronic commerce services and associated software and SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, oral or written, and any other communications relating to the subject matter of this agreement.

Now, therefore, in consideration of the mutual covenants set forth herein, SKYBEAM and Customer agree as follows:

1. Domain Registration Services.

Domain registration services are available through SKYBEAM and are bound by our reseller agreement and must abide by the terms and conditions set forth by ICANN which is the governing body for internet names in the USA. The policy regarding Domain services and the ICANN rules may be found at the SKYBEAM Texas location www.skybeam.com or at www.ICANN.org.

2. Order Acceptance, Payment.

A. All orders are subject to acceptance by SKYBEAM. An order will be deemed accepted by SKYBEAM when SKYBEAM sends written confirmation of the order to Customer.

B. SKYBEAM shall charge Customer's credit card for the applicable set-up fees and monthly fees according to the Package(s) (as defined on the [packages webpage](#)) selected by Customer and provided by SKYBEAM. Such fees and charges shall include, without limitation, the fees for connectivity, design services, and charges by any and all third parties whose materials are included as part of the Package(s). SKYBEAM reserves the right to change the amount of, or basis for determining, any fees or charges and institute new fees and charges upon prior notice to Customer. Customer must provide SKYBEAM with a valid credit card number to which

SKYBEAM will automatically charge all SKYBEAM fees as they become due. All monthly fees and set-up fees shall be due in advance of the month incurred and all additional charges shall be due at the end of the month in which such charges are incurred. Except as provided in Section 3, the set-up fees are nonrefundable and SKYBEAM does not issue pro rata refunds for fees paid in advance. If payment by Customer's credit card is denied, or Customer's charge is returned to SKYBEAM for any reason, including charge back or Customer otherwise fails to make any payments owing to SKYBEAM, SKYBEAM may, at SKYBEAM's discretion, suspend or terminate access to the SKYBEAM Services and/or terminate this Agreement. Customer's right to use the SKYBEAM Services are subject to any limits established by SKYBEAM or by the issuer of Customer's credit card. Interest charges of 1% per month (or the highest rate permitted by law if lower than 1% per month) will accrue daily on any unpaid balance, which is more than thirty (30) days overdue. Customer shall be responsible for any and all taxes related to this Agreement.

3. SKYBEAM Services.

A. During the term of this Agreement, SKYBEAM shall provide software services to Customer according to the Package(s) accepted by Customer (the "SKYBEAM Services"). "Package" means one of SKYBEAM business and/or electronic commerce service offerings, as can be found on SKYBEAM's Web site at <http://www.skybeam.com>. The specific Package to be provided to Customer shall be established by correspondence between SKYBEAM and Customer. Such Package shall be deemed incorporated by reference into this Agreement, as if fully set forth herein. SKYBEAM and Customer shall retain copies of such Package(s) for future reference.

B. At Customer's request, SKYBEAM will acquire an Internet Second-Level Domain Name ("Domain Name"), from the Contracted Registrar on behalf of Customer. Customer's request for and/or acceptance of a Domain Name obtained by SKYBEAM shall in all cases constitute Customer's waiver of any and all claims which Customer may have, or which may later arise, against SKYBEAM or its third party providers, for any and all damages, losses, claims or expenses arising out or related to the acquisition, registration and/or use of the Domain Name. Any cost incurred by SKYBEAM to obtain and/or maintain the Domain Name on behalf of Customer shall be charged to Customer by SKYBEAM. Request for and acceptance of a domain name requires SKYBEAM to supply the domain name to the Contracted Registrar, which in turn supplies the Domain Name to third parties. SKYBEAM will be the sole billing and technical contact for the Domain Name.

4. Limited 30-Day Money-Back Guarantee.

SKYBEAM offers a thirty (30) day money back guarantee on each Package. If Customer is not completely satisfied with the SKYBEAM Services provided under such Package within the first thirty (30) days, Customer may cancel this Agreement by notifying SKYBEAM by calling the number listed in Section 8C or writing to the address listed in Section 8C. In such case, Customer will receive a full refund of any amounts paid pursuant to this Agreement, except for set-up fees, which are nonrefundable. After the initial thirty (30) day period, the SKYBEAM Services shall be deemed accepted for all purposes, provided no written claim has been received by SKYBEAM within such thirty (30) day period.

5. Third Party Providers.

In order to access and use the SKYBEAM Services, Customer may be required to subscribe to other SKYBEAM services offered under separate agreements, including, but not limited to, the SKYBEAM Internet Access Agreement. This Agreement does not in any way modify the terms of such agreements. In addition, Customer acknowledges that in order to access certain of the SKYBEAM Services, Customer may have to agree to and execute agreements with third party providers who may charge Customer fees and charges which are in addition to the fees and charges imposed by SKYBEAM.

6. Rules and Regulations.

From time to time SKYBEAM may impose reasonable rules and regulations regarding the use of the SKYBEAM Services. Such rules and regulations are called acceptable use policies and are posted on SKYBEAM's web site at <http://www.Skybeam.com>. All such acceptable use policies are incorporated by reference into this Agreement as if fully set forth herein.

7. License Grant.

During the term of this Agreement, SKYBEAM grants to Customer a non-exclusive, personal, non-transferable license to access and use the SKYBEAM Services solely on and as part of SKYBEAM's World Wide Web site and servers. SKYBEAM may modify the SKYBEAM Services at any time for any reason and may provide modified versions of the SKYBEAM Services to Customer.

8. Intellectual Property Rights.

Customer acknowledges and agrees that the SKYBEAM Services constitute confidential and proprietary information of SKYBEAM and its licensors and embodies trade secrets and intellectual property of SKYBEAM and its licensors protected under United States copyright and

other laws and international treaty provisions. Customer further acknowledges that all right, title, and interest in and to all parts of the SKYBEAM Services, including, without limitation, associated intellectual property rights, are and shall remain with SKYBEAM and its licensors. Customer shall not, and shall cause its employees and agents not to, disclose or transfer any portion of the SKYBEAM Services to any third party. Customer further agrees not to translate, decompile, reverse engineer, disassemble, modify, reproduce, rent, lease, lend, sublicense, distribute, remarket or otherwise dispose of any portion of the SKYBEAM Services. Customer hereby acknowledges that, if SKYBEAM at any time or from time to time performs any customizations or modifications to SKYBEAM Services, all rights and interests to such customizations or modifications shall be the sole property of SKYBEAM.

9. Term and Termination.

A. This Agreement shall have an initial term of one (1) month and shall thereafter automatically renew for successive one (1) month periods. This Agreement and Customer's access to the SKYBEAM Services shall terminate as follows: (i) Either party may terminate upon thirty (30) days prior notice; (ii) SKYBEAM may immediately and without prior notice terminate upon a violation by Customer of SKYBEAM's acceptable use policies; (iii) SKYBEAM may terminate immediately and without prior notice in accordance with Section 1; and (iv) SKYBEAM may terminate immediately if, after 15 days prior notice to Customer, Customer has failed to correct any breach of this Agreement.

B. Upon any termination in accordance with Section 8(A)(i), SKYBEAM shall permit Customer forty-eight (48) hours to download or otherwise copy any of Customer's information and data residing on SKYBEAM's facilities prior to removing such information and data from SKYBEAM's facilities. Upon termination by SKYBEAM under Sections 8(B)(ii), (iii) or (iv), SKYBEAM may immediately remove all of Customer's data and information from SKYBEAM's facilities and Customer shall have no right to copy or download such data or information, and, in such event, all such information and data, including all copyrighted or copyrightable material therein, shall then become the property of SKYBEAM. In cases where Customer's account has been cancelled, and Customer is requesting reactivation, SKYBEAM, at its option, may reactivate the same account, only if the account had been cancelled less than sixty (60) days prior. After sixty (60) days, Customer will be required to set up a new account.

C. To cancel an SKYBEAM web hosting, domain name services or electronic commerce services, Customer should call the SKYBEAM office at 1-866-411-FAST (3278) or send a request via mail to SKYBEAM, 3261 FM 663, Suite D Midlothian, TX 76065 , Attention: Web Hosting Cancellations. For assurance of delivery, SKYBEAM recommends that requests for

cancellation are sent via certified mail.

D. Sections 1, 7, 8, 9, 10, 11, 12, 13, 14 and 15 shall survive any termination of this Agreement.

10. Exclusion of Warranties.

SKYBEAM PROVIDES THE SKYBEAM SERVICE ON AN "AS IS" BASIS, AND WITHOUT ANY WARRANTY OF ANY KIND, whether express or implied, including, but without limitation, any implied warranty of merchantability, or fitness for a particular purpose.

While SKYBEAM makes reasonable efforts to maintain the SKYBEAM service, many factors are not within SKYBEAM's control. Therefore, SKYBEAM does not warrant, and is not responsible for (even if caused by the negligence of SKYBEAM) any loss of data, delays, non-delivery or misdelivery of information, lack of access, slows response time, or service interruptions or errors. Loss, delay or non-delivery of data can be due to but not limited to SKYBEAM's own negligence, viruses or other third parties. Customer's data is defined as any data held by SKYBEAM and includes account information, web hosting data, email and domain name services. This disclaimer and waiver shall apply equally to any and all third party providers. SKYBEAM provides no warranty to customer regarding the accuracy of usage statistics, which SKYBEAM may provide in its discretion. Further, no advice or information given by an SKYBEAM representative shall create a warranty or serve as an amendment to this agreement.

SKYBEAM has the right to change prices, or add or delete product features of any existing product or service. The right to change products or services extends to any software supporting a product or service. SKYBEAM reserves the right to change prices or material features at any time upon 30 days prior notice. SKYBEAM reserves the right to institute new fees or new material features at any time upon 30 days prior notice. SKYBEAM has the right to discontinue products or services and the right to remove or reassign IP addresses of a customer's web site. SKYBEAM also has the right to deactivate a customer's service with a thirty (30) day notice. Except for certain products and services specifically identified as being offered by SKYBEAM, SKYBEAM does not control any materials, information, products, or services on the Internet. The Internet contains unedited materials, some of which are sexually explicit or may be offensive to you. SKYBEAM has no control over and accepts no responsibility for such materials. You assume full responsibility and risk for use of the services and the Internet and are solely responsible for evaluating the accuracy, completeness, and usefulness

of all services, products, and other information, and the quality and merchantability of all merchandise provided through the service or the Internet.

11. Limitation of Liability and Damages.

THE TOTAL AGGREGATE LIABILITY OF SKYBEAM TO CUSTOMER SHALL BE LIMITED TO THE AMOUNT PAID TO SKYBEAM BY CUSTOMER HEREUNDER DURING THE THREE MONTHS IMMEDIATELY PRECEDING A CLAIM IN WHICH SKYBEAM IS LIABLE TO CUSTOMER. IN NO EVENT SHALL SKYBEAM BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR LOSS OF BUSINESS, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED UPON BREACH OF CONTRACT, TORT, OR OTHERWISE AND WHETHER OR NOT SKYBEAM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12. Confidentiality.

Customer acknowledges that by reason of its relationship with SKYBEAM, it may have access to certain information and materials relating to SKYBEAM's business, customers, software technology and marketing which SKYBEAM treats as confidential (collectively "Confidential Information"). Customer shall: (i) hold in confidence, and not disclose or reveal to any person or entity, any Confidential Information without the clear and express prior written consent of a duly authorized representative of SKYBEAM; and (ii) not use or disclose any of the Confidential Information for any purpose at any time, other than for the limited purpose of performance under this Agreement. These obligations shall continue indefinitely for so long as the Confidential Information is a trade secret under applicable law and shall continue for two (2) years following termination of this Agreement with respect to Confidential Information, which does not rise to the level of a trade secret.

13. Indemnification.

Customer shall indemnify and hold SKYBEAM harmless against all third party claims, demands, suits, actions, judgments, losses, costs, damages (direct, indirect and consequential), attorney's fees and expenses that Company may sustain or incur by reason of any breach or alleged breach of any term or condition of this Agreement (including reasonable attorney's fees) and for any act or omission of Customer or its clients which are in any way related to the SKYBEAM Service.

14. Export Control.

Customer agrees not to export or re-export any portion of the SKYBEAM Service outside of the

United States . Customer further agrees to comply with all United States and other applicable laws, rules and regulations relating to the export, re-export or transshipment of the SKYBEAM Services.

15. Force Majeure.

Either party shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to, acts of God, earthquake, labor disputes and strikes, riots, war, and governmental requirements. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the period of time equal to that of the underlying cause of the delay.

16. Miscellaneous.

Customer may not assign its rights or delegate any of its duties under this Agreement without our prior written consent of SKYBEAM, and any attempted assignment or delegation without such consent shall be void. If one or more provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby. Nothing in this Agreement or in the understanding of the parties construes upon the parties the status of partners or joint ventures. SKYBEAM may subcontract any work, obligations or other performance required of SKYBEAM under this Agreement without consent of Customer. Other than the termination of this agreement, all notices provided hereunder sent by email, mail or certified mail to SKYBEAM will be effective upon transmission. SKYBEAM has the right to amend the Agreement from time to time, and will do so by posting the new Agreement on the SKYBEAM web site under the Terms and Conditions at the Policies and Agreements page. The Agreement shall be governed by the laws of Texas , without giving effect to applicable conflict of laws provisions. The federal and state courts located in Dallas , Texas alone have jurisdiction over all disputes arising out of or related to this Agreement and the Services. You consent to the personal jurisdiction of such courts sitting in Texas with respect to such matters or otherwise between you and SKYBEAM, and waive your rights to removal or consent to removal. In the event any litigation or other proceeding is brought by either Party in connection with this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to recover from the other Party all costs, attorneys' fees and other expenses incurred by such prevailing Party in such litigation.

17. California Consumer Protection.

Under California Civil Code Section 1789.3, California subscribers are entitled to the following specific consumer rights information: the complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs may be contacted in writing at 1020 N. Street, #501, Sacramento , CA 95814 or by telephone at 1-916-445-1254.

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