

WizardsWebs Design LLC Website Hosting Services Contract

This contract provides both Client (the person or company requesting services) and **WizardsWebs Design LLC**, with a formal, binding agreement with respect to website hosting and related services.

WizardsWebs Design LLC is a Web Hosting Provider. User accounts on our Internet servers are subject to compliance with the terms and conditions set forth below. Under the terms of this agreement, your placement or placement on your behalf of information on **WizardsWebs Design LLC** servers is an acknowledgement that you have read and understood this agreement, and that you agree to be bound by the terms and conditions below. By using the Services, you agree to be bound by this Agreement. If you do not agree to abide by the terms of this Agreement, you are not authorized to use or access the Services.

1. USER CONDUCT

WizardsWebs Design LLC services may only be used for lawful purposes. Any use of these services which violates any local, state, federal, or international laws which may apply to **WizardsWebs Design LLC**, your local jurisdiction, or any jurisdiction that you or your site may be subject to is strictly prohibited.

While using the service, you may not:

- a. Restrict or inhibit any other user from using and enjoying the Internet;
- b. Post or transmit any unlawful, threatening, abusive, libelous, defamatory, obscene, offensive, indecent, pornographic, profane, or otherwise objectionable information of any kind, including without limitation any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, federal or international law, including without limitation the U.S. export control laws and regulations, and laws protecting intellectual property including copyright, trademark, trade secret, misappropriation and anti-dilution laws;
- c. Post, publish, transmit, reproduce or distribute any information or software which contains a virus or other harmful component;
- d. Post, publish, transmit, reproduce, distribute or in any way exploit any information, software, or other material obtained through the service for commercial purposes (other than as expressly permitted by the provider of such information, software, or other material)

2. INDEMNIFICATION

You agree to indemnify, defend, and hold harmless **WizardsWebs Design LLC** from any and all liability, penalties, losses, damages, costs, expenses, attorneys' fees, interrupted communications, lost data, lost profits, causes of action or claims caused by or resulting indirectly from your use of the service which damages either you, **WizardsWebs Design LLC**, or any other party or parties without limitation or exception. You also agree that **WizardsWebs Design LLC** shall not be responsible for any damages your business may suffer. This indemnification and hold harmless agreement extends to all issues associated with your account, including but not limited to domain name selection and Web site content.

3. REFUSAL OR DISCONTINUANCE OF SERVICE

WizardsWebs Design LLC reserves the right to refuse or discontinue service to anyone at the sole discretion of **WizardsWebs Design LLC**. **WizardsWebs Design LLC** may deny you access to all or

part of the service without notice if you engage in any conduct or activities that **WizardsWebs Design LLC** in its sole discretion believes violates any of the terms and conditions in this agreement. **WizardsWebs Design LLC** shall have no responsibility to notify any third-party providers of services, merchandise, or information, nor any responsibility for any consequences resulting from such discontinuance or lack of notification. You agree that **WizardsWebs Design LLC** has the right to monitor the service electronically from time to time and to disclose any information as necessary to satisfy the law, or to protect itself or its subscribers. **WizardsWebs Design LLC** reserves the right to refuse to post or to remove any information or materials, in whole or in part, that, in its sole discretion, are unacceptable, undesirable, or in violation of this agreement.

4. CHANGES TO SERVICE

The services that we provide are expected to change as technology changes and systems are upgraded. We reserve the right to change any service or feature that we offer without notice to you. This includes changes to network access, and all system hardware and software.

5. NO WARRANTIES

WizardsWebs Design LLC makes no warranties or representations of any kind for the services being offered. The service is provided on an "as is" and "as available" basis without warranties of any kind, either express or implied, including but not limited to warranties of title, non-infringement, or implied warranties of merchantability or fitness for a particular purpose. No advice or information given by **WizardsWebs Design LLC** or its agents or employees shall create a warranty. **WizardsWebs Design LLC** provides no warranty that the service will be uninterrupted or error free or that any information, software or other material accessible on the service is free from viruses or other harmful components. Under no circumstances shall **WizardsWebs Design LLC** be liable for any direct, indirect, special, punitive, or consequential damages that result in any way from your use of or inability to use the service, or for third parties' use of the service to access your Web space, or to access the Internet or any part thereof, or your or any third parties' reliance on or use of information, services, or merchandise provided on or through the service, or that result from mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation or transmission, or any failure of performance. If you are dissatisfied with **WizardsWebs Design LLC** service or any of its terms, conditions, rules, policies, guidelines, or practices, your sole and exclusive remedy is to discontinue using the service.

You understand that by placing information on **WizardsWebs Design LLC** servers that such information becomes available to all Internet users and that **WizardsWebs Design LLC** has no way of limiting or restricting access to such information or protecting such information from copyright infringement. You assume total responsibility and risk for your use of **WizardsWebs Design LLC** servers and the Internet. It is solely your responsibility to evaluate the accuracy, completeness, and usefulness of all opinions, advice, services and other information, and the quality and merchantability of all merchandise provided through **WizardsWebs Design LLC** or on the Internet generally.

6. ELECTRONIC COMMUNICATIONS PRIVACY ACT (EPCA) NOTICE

WizardsWebs Design LLC reserves the right to monitor any and all communications through or with our facilities. You agree that **WizardsWebs Design LLC** is not considered a "secure communications medium" for the purposes of the ECPA, and that no expectation of privacy is afforded.

7. HIPAA Disclaimer. We are not "HIPAA compliant." Users are solely responsible for any applicable compliance with federal or state laws governing the privacy and security of personal data, including medical or other sensitive data. Users acknowledge that the Services may not be appropriate for the storage or control of access to sensitive data, such as information about children or medical or health information. **WizardsWebs Design LLC** does not control or monitor the information or data you store on, or transmit through, our Services. We specifically disclaim any representation or warranty that the

Services, as offered, comply with the federal Health Insurance Portability and Accountability Act ("HIPAA"). Clients requiring secure storage of "protected health information" under HIPAA are expressly prohibited from using this Service for such purposes. Storing and permitting access to "protected health information," as defined under HIPAA is a material violation of this User Agreement, and grounds for immediate account termination. We do not sign "Business Associate Agreements" and you agree that **WizardsWebs Design LLC** is not a Business Associate or subcontractor or agent of yours pursuant to HIPAA. If you have questions about the security of your data, you should contact webmaster@wizardswebs.com.

8. IDENTIFICATION INFORMATION

You agree that you as the person legally responsible for use of this account are at least 18 years of age. You agree to supply **WizardsWebs Design LLC** with a current and truthful name, postal address and telephone number for our records, and you have a continued obligation to keep this information current. You also agree that you are an authorized user of any credit card that you supply to us and agree that we have an obligation to fully investigate any possible fraudulent credit card use.

9. NO INTERFERENCE WITH OPERATION OF SYSTEM

You agree not to maliciously or intentionally interfere with the proper operation of the system, including but not limited to defeating identification procedures, obtaining access beyond that which you are authorized for, and impairing the availability, reliability, or quality of service for other customers. You further agree not to interfere with the proper operation of other systems reachable through the Internet, including any attempt at unauthorized access. You agree to follow the Acceptable Use Policy of any network or service you connect to.

You agree to adhere to system policies as published online by **WizardsWebs Design LLC**, including restrictions on services available with each account type, restrictions on certain features, and all other policies designed to protect and enhance the quality and reliability of service at **WizardsWebs Design LLC**. You agree to abide by any and all future **WizardsWebs Design LLC** policy decisions.

10. SECURITY

You agree that the security of your account is solely your own responsibility. You further agree that if you believe the security of your account has been compromised in any way, you will notify **WizardsWebs Design LLC** immediately by telephone at 713-817-3880 or in writing by email or registered mail to **WizardsWebs Design LLC**, 22902 Hausworth Court, Spring, Texas 77373-7916. You shall be held fully responsible for any misuse or compromise to your account for which **WizardsWebs Design LLC** is not properly notified. You agree that if any security violations are believed to have occurred in association with your account, **WizardsWebs Design LLC** has the right to suspend access to the account pending an investigation and resolution. You also agree that **WizardsWebs Design LLC** has the right to cooperate in any government or legal investigation regarding any aspect of our services, including services sold to you. Any use of our system to engage in software piracy or other violations of law will result in account suspension and be immediately reported to the appropriate authorities.

11. BACKUP OF DATA

WizardsWebs Design LLC maintains periodic backups of files and data for accounts which subscribe to website maintenance only. Backups are provided as a service and are not guaranteed. For all other accounts, your use of the service is at your sole risk and **WizardsWebs Design LLC** is not responsible for files and data residing on your account. You agree to take full responsibility for files and data transferred and to maintain all appropriate backup of files and data stored on **WizardsWebs Design LLC** servers.

12. TRANSMITTAL OF MATERIALS

You agree not to transmit unsolicited or prohibited advertising or other harassing or illegal materials through electronic mail, Usenet postings, or other Internet media. The use of **WizardsWebs Design LLC** or any other service with reference to services obtained through **WizardsWebs Design LLC**, for unsolicited mass mailings, postings, or other activities considered an annoyance to others, commonly referred to as "spamming" is strictly prohibited and may cause your services to be terminated immediately and without warning and you will be held fully responsible for any damages to you, **WizardsWebs Design LLC**, or any other party or parties resulting from any such conduct.

13. PAYMENT

WizardsWebs Design LLC invoices for hosting and website maintenance services quarterly, in advance. Services are invoiced in advance because they cannot be repossessed or returned in the case of non-payment. Services are invoiced quarterly to keep administrative costs low. Other services are invoiced for and are due at the time they are provided. Payment terms, if offered, are offered at the sole discretion of **WizardsWebs Design LLC**. You agree to make payment in full for the services ordered from **WizardsWebs Design LLC**, by the invoice due date. You agree that all setup fees are non-refundable once setup is completed. You agree that until and unless you notify **WizardsWebs Design LLC** of your desire to cancel any or all services received, those services will be billed on a recurring basis. You agree that if you are paying by credit card, prepayments will be billed and charged automatically, and that **WizardsWebs Design LLC** may apply the amount due to the provided card at any time. You agree that pro-rated refunds for unused time periods will be not provided in the event of account termination.

- You agree to a late payment fee of \$20 if payment is not received by the invoice due date.
- You agree that if a payment remains past due for 15 days past the invoice due date all services may be suspended. This means that the website will be taken offline and email services suspended. You understand that search engines may remove your site from their search results once they detect your website is offline.
- You agree to pay all over due amounts, late fees, and a \$35 service charge to reinstate an account that has been suspended.
- You agree that if a payment remains past due for 60 days past the invoice due date the account will be closed.
- You agree to pay any collection and attorney fees.

14. PRIOR AGREEMENTS

This agreement supersedes any written, electronic, or oral communication you may have had with **WizardsWebs Design LLC** or any agent or representative thereof, and constitutes the complete and total agreement between the parties.

15. SEVERABILITY

If any provision of this agreement is determined to be invalid or unenforceable, all other provisions shall remain in full force and effect and said provision shall be reformed only to the extent necessary to make it enforceable.

16. ARBITRATION

By using the Services, you hereby submit to the exclusive jurisdiction of the American Arbitration Association ("AAA") in connection with any dispute relating to, concerning or arising out of this Agreement. The arbitration will be conducted before a single arbitrator chosen by **WizardsWebs**

Design LLC and will be held at the AAA location chosen by **WizardsWebs Design LLC** in Texas. Payment of all filing, administrative and arbitrator fees will be governed by the AAA's rules, unless otherwise stated in this paragraph. In the event you are able to demonstrate that the costs of arbitration will be prohibitive as compared to the costs of litigation, WizardsWebs Design LLC will pay as much of your filing, administrative, and arbitrator fees in connection with the arbitration as the arbitrator deems necessary to prevent the arbitration from being cost-prohibitive. The arbitration before the AAA shall proceed solely on an individual basis without the right for any claims to be arbitrated on a class action basis or on bases involving claims brought in a purported representative capacity on behalf of others. The Federal Arbitration Act, and not any state arbitration law, governs all arbitration under this paragraph. All decisions rendered by the arbitrator will be binding and final. The arbitrator's award is final and binding on all parties. The arbitrator's authority to resolve and make written awards is limited to claims between you and **WizardsWebs Design LLC** alone. Claims may not be joined or consolidated unless agreed to in writing by all parties. No arbitration award or decision will have any preclusive effect as to issues or claims in any dispute with anyone who is not a named party to the arbitration. If you initiate litigation or any other proceeding against **WizardsWebs Design LLC** in violation of this paragraph, you agree to pay WizardsWebs Design LLC's reasonable costs and attorneys' fees incurred in connection with our enforcement of this paragraph.

17. JURISDICTION

This agreement shall be governed by the laws of the State of Texas.

18. ACKNOWLEDGEMENT

By ordering our services, creating an account, or otherwise placing information on **WizardsWebs Design LLC** servers you are stating and acknowledging that you have read the aforementioned terms and conditions and that you understand such terms and conditions and agree to be bound by them without exception.

WizardsWebs Design LLC reserves the sole right to modify this agreement at any time without notice. By continuing to subscribe to our services you are stating and acknowledging that you have read the changed terms and conditions and that you understand such terms and conditions and agree to be bound by them without exception.

Other Information

This is our account service contract. It is fairly standard legalese. Although it may sound harsh, rest assured that we have nothing but good intentions towards our clients. Like all of our policies, the contract is designed to maximize the efficiency and quality of our service for all customers.