

## Terms of Use

Terms of Service The Barn Works (hereby called "The Service Provider") provides web design, development, and publishing services for personal and business applications. The Barn Works does not actively monitor the content of any web site, electronic mail transmission, mailing list, news group or other material created or accessible over The Barn Works services. However, The Barn Works reserves the right to remove any materials The Barn Works does become aware of that are, in The Barn Works's sole discretion, potentially illegal, could subject The Barn Works to liability, or violate this policy. The use of The Service Provider is subject to the following terms and conditions.

The Barn Works may amend this agreement on an as needed basis by placing an update of this posting, and your continued use of The Barn Works's services following each updated posting shall be deemed to be your acceptance of any such modification. Furthermore, it is your responsibility to monitor the "Terms and Conditions" page of The Service Provider regularly to determine whether the terms and conditions have been modified. If you do not agree with these Terms and Conditions you must immediately stop using The Barn Works's services.

### TERMS OF CONTRACT

#### I. Financial Arrangements

1. Client agrees to the contract for the length specified, beginning upon The Barn Works's receipt by fax, e-mail, or express mail. Client agrees to pay The Barn Works for services rendered pursuant to the payment schedule.
2. First payment shall be due upon receipt of contract.
3. This agreement will automatically renew for identical successive periods unless canceled in writing or modified by client thirty (30) days prior to the renewal date. Client will receive an invoice for charges and payment is due upon receipt of invoice.
4. Initial payment is due with contract. Contract takes effect on the date of receipt of payment, and will be renewed automatically for identical successive periods. Any changes made to the Client's package (e.g. extra HTML pages, design services, additional e-mail accounts) shall be billed accordingly.
5. All orders are subject to acceptance by The Barn Works. An order will be deemed accepted by The Barn Works when confirmation of the order is sent to Customer. The Barn Works may refuse to accept any order, or delay acceptance awaiting completion of conditions The Barn Works may choose to exercise. Such refusal of such conditions may not be unreasonable, however, and The Barn Works agrees to provide Customer with reasonable notice by E-mail or fax of any intent to delay or decline the acceptance of any order.
6. The Barn Works reserves the right to suspend the customer's account and services without notice should there be any problems with the customer's method of payment. This includes expired credit cards, declined credit cards, inactive credit cards, and invalid checks.

#### II. Taxes

The Barn Works shall not be liable for any taxes or other fees to be paid in accordance with or related to purchases made from Client or The Barn Works's server. Client agrees to take full responsibility for all taxes and fees of any nature associated with any such products sold.

#### III. Material and Products

1. The Barn Works makes no warranties or guarantees of any kind, whether expressed or implied for the service it is providing. The Barn Works also disclaims any warranty of merchantability or fitness for particular purpose and will not be responsible for any damages that may be suffered by the Client, including loss of data resulting from delays, non-deliveries or service interruptions or gaps by any cause or errors or omissions of the Client. The Barn Works is not responsible for any loss, erasure, or corruption of Client's data or files whatsoever. Use of any information obtained by way of The Barn Works is at the Client's own risk, and The Barn Works specifically denies any responsibility for the accuracy or quality of information obtained through its services. Connection speed represents the speed of connection to The Barn Works and does not represent guarantees of available end to end bandwidth. The Barn Works expressly limits its damages to the Client for any non-accessibility time or other down time to the pro-rate monthly charge during the system unavailability. The Barn Works specifically denies any responsibilities for any damages arising from a consequence of such unavailability. In the event that this material is not "Server-ready", The Barn Works may, at its option and at any time, reject this material, including but not limited to after it has been put on The Barn Works's Server. The Barn Works agrees to notify Client immediately of its refusal of the material and afford Client the opportunity to amend or modify the material

to satisfy the needs and/or requirements of The Barn Works. If the Client fails to modify the material, as directed by The Barn Works, within a reasonable period of time, which shall be determined between the parties themselves, the Agreement shall be terminated.

#### IV. Trademarks & Copyrights and Prohibition of Certain Material

1. Client warrants that it has the right to use the applicable trademarks, if any.
2. The Barn Works may request the right to use such trademarks in connection with The Barn Works's service(s). Client will review such a request promptly, and not unreasonably withhold such permission.
3. The Barn Works neither sanctions nor permits hosted site content or the transmission of data that contains illegal or obscene material or fosters or promotes illegal activity. The Barn Works reserves the right to immediately suspend or terminate any site or transmission that violates this policy, without prior notice. In the event of such termination, you agree that the unused portion of any fees you may have paid for any services rendered to you by The Barn Works are an appropriate recompense to The Barn Works for the time required to respond to and address issues created by your illegal or obscene site/content, and you agree not to seek recovery of those fees. Further, should you violate this policy, The Barn Works will actively assist and cooperate with law enforcement agencies and government authorities in collecting and tendering information about you, your site, the illegal or obscene content, and those persons that may have inappropriately accessed, acquired, or used the illegal or obscene content.

#### V. Etiquette and Policy

1. The network resources of The Barn Works may not be used to impersonate another person or misrepresent authorization to act on behalf of others or The Barn Works. All messages via The Barn Works should correctly identify the sender; users may not alter the attribution of origin in electronic mail messages or postings. Users may not attempt to undermine the security or integrity of computing systems or networks and must not attempt to gain unauthorized access to said networks. Clients may not use The Barn Works's server for mass e-mail or "spamming" purposes.

2. The Barn Works may impose reasonable rules and regulations regarding the use of its services. Customer shall impose such rules and regulations on its customers to the extent necessary to ensure compliance.

3. The Barn Works's services may not be used for illegal purposes, or in support of illegal activities. The Barn Works reserves the right to cooperate with legal authorities and/or injured third parties in the investigation of any suspected crime or civil wrong. Activities which are prohibited as potentially illegal include, but are not limited to:

Unauthorized copying of copyrighted material including, but not limited to, digitization and distribution of photographs from magazines, books, or other copyrighted sources, and copyrighted software.

Posting or e-mailing of scams of any kind.

Threatening bodily harm or property damage to individuals or groups.

Making fraudulent offers of products, items, or services originating from your account.

Attempting to access the accounts of others, or attempting to penetrate beyond security

Distributing viruses to or from The Barn Works systems.

5. Bulk e-mail sent through a mail service external to our system can not contain an e-mail address or a domain name that is hosted by The Barn Works. This generally results in complaints being forwarded to our administrative staff and will be cause for immediate account termination or suspension without prior notification.

#### VI. Termination

1. This Agreement may be terminated by The Barn Works, without cause, by giving the other party 30 days notice via e-mail or fax. In such event, The Barn Works will be required to pay to the other party an amount equal to the unused and prorated portion of service excluding any setup charges. Notwithstanding the above, The Barn Works may terminate the service under this Agreement at any time, without penalty, if the Client fails to comply with the terms of this Agreement. It is the client's responsibility to point their domain(s) to another service provider upon termination, cancellation or discontinuation of service.

#### VIII. Limited Liability

1. Client expressly agrees that use of The Barn Works's services is at Client's sole risk. Neither The Barn Works, its employees, agents, resellers, third party information providers, merchants licensors or the like, warrant that The Barn Works's services will not be interrupted or be error free; nor do they make any warranty as to the results that might be obtained from the use of the services or as to the accuracy, or reliability of any information service or merchandise contained in or provided through The Barn Works services, unless otherwise expressly stated in this Agreement.

2. Under no circumstances, including negligence, shall The Barn Works, its officers, agents or any one else involved in creating, or distributing The Barn Works's service be liable for any direct, indirect, incidental, special or consequential damages that result from the use of or inability to use the The Barn Works service; or that results from mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation, or transmission or any failure of performance, whether or not limited to acts of God, communication failure, theft, destruction or unauthorized access to The Barn Works's records, programs or services. Client hereby acknowledges that this paragraph shall apply to all content on The Barn Works's service.

#### IX. Indemnification

Client agrees that it shall defend, indemnify, save and hold The Barn Works harmless from any demands, liabilities, losses, costs and claims, including reasonable attorneys fees, ("Liabilities") asserted against The Barn Works, its agents, its customers, servants officers and employees, that may arise or result from any service provided or performed or agreed to be performed or any product sold by Client, its agents, employees or assigns. Client agrees to defend, indemnify and hold harmless The Barn Works against Liabilities arising out of (i) any injury to person or property caused by any products sold or otherwise distributed in connection with The Barn Works's Server; (ii) any material supplied by Client infringing or allegedly infringing on the proprietary rights of a third party; (iii) copyright infringement and (iv) any defective product which Client sold on The Barn Works Server.

#### X. Partial Invalidity

If any provision of this agreement is held to be invalid by a court of competent jurisdiction, then the remaining provisions shall nevertheless remain in full force and effect. The Barn Works and Customer agree to renegotiate in good faith any term held invalid and to be bound by mutually agreed substitute provision.

#### XI. Disputes

The parties shall try to resolve all disputes that might arise out of this agreement in a spirit of cooperation without formal procedures. Any dispute which cannot be so resolved (other than the collection of money due on unpaid invoices) and other than the injunctive relief referred to in paragraph 10 shall be subject to arbitration upon written demand of either party. Arbitration shall take place in Boston, Massachusetts or at a different location if the parties so agree. The arbitration will take place before an arbitration panel chosen as follows: The parties shall each choose an arbitrator, and the two arbitrators shall choose a third arbitrator and determine the third arbitrator's pay. Each party shall have one veto over the choice of the third arbitrator. The three arbitrators shall schedule an informal proceeding, hear the arguments, and decide the matter by secret majority vote. Unless the arbitrators decide otherwise, each party shall pay the costs of its own arbitrator, and shall pay half of the other costs of the arbitration proceeding. Each party shall have the right to have the proceedings transcribed. The arbitrators will not have the authority to award punitive damages or any other form of relief not contemplated in the contract. The majority of arbitrators shall render a written opinion setting forth the basis on which they arrived at the decision regarding each issue submitted to arbitration; the dissenting arbitrator, if any, shall not issue a dissenting opinion. Regarding each issue submitted to arbitration, the decision will be final and binding only to the extent it is accompanied by a written explanation of the basis upon which it was arrived at. Judgment upon the award, if any, rendered by the arbitrators may be entered in any court having jurisdiction.

Should any legal action permissible under this agreement be taken to enforce the conditions and terms of this agreement, in particular the right to collect money due on unpaid invoices, the prevailing party shall be entitled to recover reasonable legal fees and expenses incurred at the trial and appellate levels.

#### XII. Confidentiality

Customer acknowledges that by reason of their relationship, both customer and The Barn Works may have access to certain products, information and materials relating to the other party's business, which may include business plans, customers, software technology, and marketing plans that are confidential and of substantial value to either party, respectively, and which value would be impaired if such information were disclosed to third parties. Consequently, both The Barn Works and customer agree that it will not use in any way for its own account or for the account of any third party, nor disclose to any third party, any such information revealed to it by either party, as the case may be. Customer and The Barn Works further agree that it will take every appropriate precaution to protect the confidentiality of such information. In the event of termination of this agreement, there shall be no use or disclosure by either party of any such confidential information in its possession, and all confidential documents shall be returned to the rightful owner, or destroyed. The provisions of this section shall survive the termination of the agreement for any reason. Upon any breach or threatened breach of this section, either party shall be entitled to injunctive relief, which relief will not be contested by the Customer or The Barn Works.

#### XIII. Notices

Except with respect to service of process as set forth in above paragraphs, all notices may be sent by e-mail, fax, or express mail to the e-mail address, fax number, or address most recently provided and will be effective upon transmission. Evidence of successful transmission shall be retained.

#### XIV. Use of Email Addresses

By sending an email to any domain owned, hosted or otherwise managed by The Barn Works, the sender unequivocally agrees to use said email address(es) SOLELY for the purpose of inquiring about, procuring or requesting customer or technical assistance with products or services provided by The Barn Works or domain owners, hosted or managed by The Barn Works, its affiliates or subcontractors. Emails of this nature or of a personal nature where the sender is known personally by the recipient may be freely sent without prior permission of The Barn Works or owners of domains managed by The Barn Works.

The sending of emails to any of the email addresses belonging to domains owned, hosted or otherwise managed by The Barn Works that do NOT match the criteria set forth in the preceding paragraph constitutes acceptance and obligation to abide by the policies and terms of use of said email addresses. The Barn Works permits emails of this nature at a cost to the sender in the amount of five hundred US dollars (\$500.00 USD) per email sent. (Our price doubles to \$1,000.00 USD for "adult" related emails.) If the sender of such emails does not agree to these terms then the sender should not send said email(s). By sending emails of this nature the sender agrees to the charges stated above and this agreement shall carry the full force and effect of a hard copy contract signed by sender containing these terms and conditions.

For example: Emails sent to email addresses belonging to domains owned or managed by The Barn Works requesting pricing on web hosting, requesting assistance with accessing The Barn Works mail servers, terminating The Barn Works services or any other communication regarding The Barn Works products or services are within acceptable FREE use of said email addresses. The same is true of emails sent regarding the products and services of owners of domains managed by The Barn Works.

Emails sent for any other purpose including but not limited to informing The Barn Works or owners of domains managed by The Barn Works of the sender's products or services (or services of the clientele or customers of the sender), newsletters, alerts or other information NOT pertaining to the products or services of domains owned, hosted or otherwise managed by The Barn Works shall be deemed 'improper use of email addresses' belonging to domains owned, hosted or otherwise managed by The Barn Works and shall result in charges invoiced to the sender due and payable upon receipt in the amount of five hundred US dollars (\$500.00 USD) per email sent (\$1,000.00 USD for "adult" related emails.) This includes, but is not limited to emails that require the recipient to "opt out" or "request removal." Exceptions to these terms and conditions shall be solely at the discretion of the recipient of any email matching or resembling the above definition of 'improper use of email addresses'.

Essentially any email sent to email addresses belonging to domains owned or managed by The Barn Works that do not pertain directly to the products or services offered by The Barn Works or owners of domains managed by The Barn Works shall be considered as improper use of email addresses belonging to domains owned or managed by The Barn Works and shall be billable and payable at the rate of five hundred US dollars (\$500.00 USD) per email sent. (\$1,000.00 USD for "adult" product or site related emails.)

This policy will be enforced with zero tolerance. If there is any question as to whether an email is considered to be in the improper category thereby being fully billable and payable by the sender in the amount stated above the sender should contact The Barn Works for permission to send the email(s) in question or to clarify which category the email(s) in question would fall into prior to sending said emails.

Questions regarding these policies can be sent to: MV Skip, LLC 14 Tower Loop, Tuxedo, NY 10987.