

Internet Computing Solutions
Hosting Agreement and Acceptable Use Policy (AUP)

The following agreement is between ***Internet Computing Solutions***, (here forth know as "ICS").) an Indiana Company, of P.O. Box 24234, Indianapolis, IN 46224, and you, (here forth know as "Client").

WHEREAS, *ICS* is an information provider, connected to the Internet. *ICS* offers web site design, data storage and transfer services over the Internet through access to its equipment;

WHEREAS, Client seeks to utilize *ICS's* services, equipment and software for its own purposes;

WHEREAS, the parties acknowledge that the Internet is neither owned nor controlled by any one entity; therefore, *ICS* can make no guarantee that any given person on-line shall be able to access any one of *ICS's* web servers at any given time. *ICS* represents that it shall make every good faith effort to ensure that its equipment is available as widely as possible and with as little service interruption as possible;

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows;

I. Age:

The Client certifies that he or she is at least 18 years of age. If the client is not at least 18 years of age, then he/she has been granted the permission by his/her legal guardian to act on that guardian's behalf. Under these circumstances, the underage client has been granted permission to use *ICS's* domain hosting services and enter into this agreement on behalf of the legal guardian.

II. Financial Arrangements:

1. Client agrees to a minimum twelve (12) month contract for Domain Hosting Services as specified in the Hosting Services Order form, beginning upon *ICS* receipt in person, or by fax, postal mail or e-mail of client's order. By completing and returning the Hosting Services Order form to *ICS*, Client Agrees to this Acceptable Use Policy.

2. The Client agrees to maintain a Domain Hosting Service Plan and an annual billing plan as specified in the Hosting Services Order form that the Client Signed. By completing and returning the Hosting Services Order form to *ICS*, Client agrees to this Acceptable Use Policy.

3. The Client agrees to either a Self-Managed or Fully-Managed Management Services Account as specified on the Hosting Services Order form. If the Client agrees to a Fully Managed Account, provided by *ICS*, the Client agrees to pay an annual fee for this service as specified on the Hosting Services Order form. The total annual fee is due and payable when web site activation is complete.

4. The Client agrees to pay an hourly rate for any web site related programming and management services relating to, but not limited to, all domain hosting features, web site development, updates, changes, programming, R&D, consulting, or restoration services not covered by the Managed Services you choose on the Hosting Services Order form. *ICS* will notify Client of any additional charges and provide a price quote to Client prior to performing any services that are not included in the Managed Services the Client chooses.

5. This agreement will automatically renew for the same successive period(s) specified by the Client on the Hosting Services Order form. This agreement will renew unless canceled in writing at least 30 days prior to the renewal date. Renewal of all services by Client indicates agreement to any and all AUP revisions. It is up to the Client to periodically Review the AUP to become aware of any and all Policies and Changes to the AUP. The AUP is available on the *ICS* website at www.icoso.com

III. Taxes:

ICS shall not be liable for any taxes or other fees to be paid in accordance with or related to purchases made from Client's web site on *ICS's* equipment or from any of Client's affiliates. Client agrees to take full responsibility for all taxes and fees of any nature associated with such products sold from Client's web site.

IV. Material and Products:

If Client chooses a Self-Managed Account or if Client uploads any material or data to be displayed on the web site, Client will provide *ICS* with material and data for display on the Client's web site in a condition that is "server-ready", which is in a form requiring no additional manipulation on the part of *ICS*. If the services of the Fully Managed Account provisions on the Plan Pricing and Maintenance Services form are purchased, *ICS*, on behalf of the Client, will provide material and data for display on the Client's web site in a condition that is "server-ready". *ICS* shall make no effort to validate this information for content, correctness or usability except that, if Client has purchased the services under the Fully Managed Account provisions on the Plan Pricing and Maintenance Services order form, Client will remain responsible for content and correctness of the data but *ICS* will assist the Client in making that data and material usable on *ICS's* equipment.

V. Competency

Use of *ICS's* Domain Hosting Services requires a certain level of knowledge in the use Internet languages, protocols, and software. This level of knowledge varies depending on the anticipated use and desired content of Client's Web space by the Client.

The following examples are offered:

Web Publishing: requires knowledge of HTML, properly locating and linking documents, FTPing documents, creating graphics, text, sound, image mapping, etc.

CGI-Scripts: requires a knowledge of the UNIX environment, TAR & GUNZIP commands, Perl, C Shell scripts, permissions, etc.

E-mail: a knowledge of POP3 service, mail forwarding, use of mail clients to receive mail, etc.

In the event Client chooses a Self Managed Account or provides data and material for display on the Client's web site, Client agrees that he or she has necessary knowledge to create web pages and utilize the domain hosting service being provided by *ICS* without reliance on *ICS*. Client agrees that it is not the responsibility of *ICS* to provide this knowledge or Customer Support outside of the defined domain hosting services of *ICS*.

If the services of the Fully Managed Account provisions on the Plan Pricing and Maintenance Services form are purchased, *ICS* agrees that it has necessary knowledge, on behalf of the Client, to create web pages and utilize the domain hosting service being provided by *ICS*. Client agrees that it is not the responsibility of *ICS* to provide this knowledge or Customer Support to Client outside of the defined domain hosting services of *ICS*.

VI. Content

1. *ICS* will exercise no control whatsoever over the content of the information passing through the network. *ICS* makes no warranties or representations of any kind, whether expressed or implied for the domain hosting service it is providing. *ICS* 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 by any cause or errors or omissions of the Client. Use of any information obtained by way of *ICS* is at the Client's own risk, and *ICS* specifically denies any responsibility for the accuracy or quality of information obtained through its services. Connection speed represents the speed of a connection to and does not represent guarantees of available end-to-end bandwidth. *ICS* expressly limits its damages to the Client for any non-accessibility time or other down time to the prorated monthly charge during the system unavailability. *ICS* specifically denies any responsibilities for any damages arising as a consequence of such unavailability.

2. In the event Client chooses a Self-Managed Account and/or any particular Client provided material or data is not "Server-ready", *ICS* may, at its option and at any time, reject this material, including but not limited to after it has been put on *ICS's* provided web servers. This includes *ICS's* right to disable such non-"Server-ready" materials, such as CGI scripts or programs which consume an unreasonable amount of CPU (Central Processing Unit) usage or RAM (Random Access

Memory) as determined by *ICS*. *ICS* may also at its discretion at any time, suspend access to any client's web site without notice, due to over-consumption of bandwidth (exceeding 17,000MB/day transfer), CPU usage, or any other reason which might effect the performance of *ICS* services. *ICS* agrees to notify Client immediately of its refusal of the material and/or suspension of the account and afford Client the opportunity to amend or modify the material to satisfy the needs and/or requirements of *ICS*. In the event the equipment owner notifies *ICS* that any material provided by Client has been refused or suspended for reasons as outlined above, *ICS* shall notify Client and request that the material be modified within a reasonable period of time established by *ICS*. *ICS* may, at its option and as agreed to by Client, modify the material on behalf of the Client, applying the hourly rate of cost as on the Plan Pricing and Maintenance Services form. If the Client fails to modify the material, as directed by *ICS*, within a reasonable period of time established by *ICS*, the Agreement shall be deemed to be terminated.

3. If the services of the Fully Managed Account provisions on the Plan Pricing and Maintenance Services form are purchased, *ICS* will make materials server-ready to the extent that it is possible to make such material server-ready. This includes materials, such as CGI scripts or programs which do not consume an unreasonable amount of CPU (Central Processing Unit) usage or RAM (Random Access Memory) as determined by the equipment owner. In the event the equipment owner notifies *ICS* that any material provided by *ICS* has been refused or suspended for reasons as outlined in Section VI, Item 2, *ICS* shall modify the material within a reasonable period of time or this agreement may be terminated by the Client.

4. *ICS* accepts no responsibility for, nor warrants, any material uploaded or installed on the web site provided by the Client. *ICS* may, at its option, offer additional content services for a fee for web site related programming and management services relating to, but not limited to, all domain hosting features provided by *ICS*. These may include such services as: Web Publishing, HTML programming, properly locating and linking documents, FTPing documents, creating graphics, text, sound, image mapping, Java Script programming, CGI-Scripts programming, Perl, C Shell scripts, and other computer related programming services, eMail management services, and other computer related consulting services.

VII. Acceptable Uses

Client is expected to use the Internet with respect, courtesy, and responsibility, giving due regard to the rights of other Internet users. Client is expected to use his/her account for the purposes of maintaining a web site only. If the services of the Fully Managed Account provisions on the Plan Pricing and Maintenance Services form are purchased, *ICS* agrees with Client that the Client shall use the Internet with respect, courtesy, and responsibility, giving due regard to the rights of other Internet users and that the Client is expected to use his/her account for the purposes of maintaining a web site only. Common sense is the best guide as to what is considered acceptable use.

A. The Client recognizes that the following items are prohibited items by *ICS* and may subject the Client to such remedies as outlined hereinafter:

1. Adult Material Restrictions

ICS forbids web sites with adult graphic content (softcore and/or hardcore), including, but not limited to, banners advertising any adult web site(s), child pornography, and distribution of adult web site passwords. Client's whose accounts are found in violation of this policy may, at the discretion of *ICS*, have their account(s) terminated without notice and are subject to a maximum \$250 clean-up/disconnection fee.

2. File Distribution/Mirroring

ICS forbids use of domain hosting services for those who provide mirroring service for other web site or web sites, and/or whose primary purpose is file distribution. Distribution of executable programs, archive files, or other non-visual file types are not welcome. Client's whose accounts who are found in violation of this policy may, at the discretion of *ICS*, have their account(s) terminated without notice and are subject to a maximum \$250 clean-up/disconnection fee.

3. Hate Material Restrictions

Hatred messages including racism, sexism, or content promoting one particular race, sex, or nationality as superior and/or another race, sex, or nationality as inferior is unacceptable. Client's whose accounts are found in

violation of this policy may, at the discretion of *ICS*, have their account(s) terminated without notice and are subject to a maximum \$250 clean-up/disconnection fee.

4. Illegal Activity Restrictions

Client's whose web site promotes activities that violate federal, state, local laws and/or violation of U.S. export restrictions are also not welcome at *ICS*. This includes "warez" sites (freely distributing copyright programs), or sites promoting hacking and/or cracking programs. Client's whose accounts are found in violation of this policy may, at the discretion of *ICS*, have their account(s) terminated without notice and are subject to a maximum \$250 clean-up/disconnection fee. Additionally, *ICS* may contact the Software Piracy Association ("SPA") and release any information in connection with any illegal activities relating to software piracy on the Client's account.

5. Email/Spamming/Mailbombing/Trolling Restrictions/Mailing Lists

Spamming is the sending of unsolicited e-mail, regardless of size or volume, to persons the sender does not know or have prior consent to send the message to. Using fictitious e-mail addresses @*ICS* or any domain name hosted with *ICS* is strictly forbidden. Spamming also includes sending unsolicited advertisements to numerous email addresses or newsgroups and/or generating a significantly higher volume of outgoing email than a normal user. A violation of this policy extends to clients who send unsolicited e-mail from a third party source or domain name not affiliated or hosted with *ICS* but the mail message makes mention of a web site hosted with *ICS*.

ICS allows clients to send mailings to subscribers of their own mailing list. Such mailings must have explicit instructions to the recipient on how to remove his/her name from the list, and all requests to do so must be honored immediately. Client agrees not to send mailings to lists provided by an outside agency or individual. Client further agrees not to provide mailing list services to others. Due to the nature of a shared-server environment, *ICS* requests that mailing lists be sent during non-peak hours, specifically between the hours of 1:00 am and 5:00 am, Central Time. *ICS* reserves the right to terminate a client's mailing program, whether provided by *ICS* or not, immediately and without notification to client if said list causes a problem with the e-mail services of other clients. *ICS* also reserves the right to forbid a client from utilizing any mail-sending program that jeopardizes the mail services of other clients.

Client further agrees and understands that any activity regarding sending mail, mass mailings via SMTP, or mailing list operations, via the clients mail server provided by *ICS* as part of their hosting services, and any other email related functions performed by mail server provided by *ICS*, such as but not limited to SPAM filtering, Virus Filtering, etc. may adversely affect the overall performance of the clients website and email server, including, but not limited to, email server failure, website server failure, being listed as a SPAM source by other vendors, etc. *ICS* accepts no responsibility for any adverse affect caused by this type of email activity. Client agrees to compensate *ICS* fully for any clean-up or restorations services performed by *ICS* or its affiliates to restore email/website server functionality.

Due to the consumption of system resources and overloading of the e-mail server, *ICS* forbids the use of the Gossamer Links program by any client.

Trolling, the posting of outrageous messages to generate numerous responses, is also not allowed. Mailbombing, the sending of multiple messages without significant new content to the same user and/or subscribing someone else to a mailing list without that person's permission, cross-posting articles to an excessive number of newsgroups, or attempting without authorization to enter into a secured computer system is strictly forbidden.

ICS reserves the right to determine what constitutes abuse of this policy. Clients whose accounts are found in violation of this policy may, at the discretion of *ICS*, have their account(s) terminated without notice and are subject to a maximum \$250 clean-up/disconnection fee per occurrence.

6. IRC Bots Restrictions

IRC Bots, or any other automaton programs written in C, Perl or IRC-script used specifically in conjunction with IRC are not allowed. These programs tie up system resources and are in no way related to maintaining a web site. Clients are not allowed to have any programs, including but not limited to, Eggdrop, or any other IRC-related programs, within their account. Client agrees not to upload the tar file for any of these programs or to execute them within their account. The first violation of this policy will result in the IRC-related program to be

removed from the Client's account and *ICS* will notify the Client immediately of the violation. The second violation of this policy may, at the discretion of *ICS*, result in the Client's account(s) being terminated without notice and a maximum \$250 clean-up/disconnection fee.

7. Copyright Restrictions

It is the responsibility of the client to ensure that all information within their account is their own work. Due to distribution rights of shareware programs, clients may not distribute freeware software programs unless the programs are their own work. Copyrighted materials include art, music and other works. MP3 is a popular file format for encoding music. While we do not ban MP3s, we do ask that any MP3s you have on your web site are not in violation of any copyrights. Copyrighted music, in any format, cannot be placed within client's account. Clients agree to indemnify *ICS* of any possible litigation involving trademark or copyrighted materials. The best rule to follow is not to copy work from someone else unless you have been granted permission to use these materials on your web site.

Client agrees not to modify any copyright notices in features (Perl programs, etc.) provided by *ICS*. Modification of scripts provided by *ICS* without written permission is strictly prohibited.

The first violation of this policy will result in the copyrighted material being removed from the Client's account and *ICS* will notify the Client immediately of the violation. The second violation of this policy may, at the discretion of *ICS*, result in the Client's account(s) terminated without notice and a maximum \$250 clean-up/disconnection fee.

8. Emulator/ROM Restrictions

Client agrees not to store Game-emulators or ROMs within their account. These emulators/ROMS commonly violate copyright law and therefore are not allowed at *ICS*. Any emulator(s), or programs that will allow you to play certain ROMs for a specific game console or computer or ROM(s), (read only memory) game cartridges in binary format are prohibited. If these programs are found within the Client's account, it may, at the discretion of *ICS*, result in the Client's account(s) terminated without notice and a maximum \$250 clean-up/disconnection fee.

9. Excessive CPU/RAM Usage

Client agrees to take all responsibility for all programs including CGI scripts executed under their account. Programs that consume an excessive amount of CPU run time or Random Access Memory (RAM) are not permitted. Client agrees and understands that such excessive use can have an adverse effect on the performance of the web server. Client agrees to accept responsibility for programs executed under his/her account, regardless of who authored the program. The use of cgi or html chat scripts or pages is strictly prohibited. *ICS* provides two (2) acceptable chat programs for clients at no charge. *ICS* reserves the right to suspend accounts without notice to clients who violate these terms. *ICS* has sole discretion over what constitutes excessive usage.

Programs provided by *ICS* as an installable feature are not exempt from this policy. While every effort is made on *ICS*'s end to ensure the program it provides are efficient, problems with excessive usage on particular programs may occur.

B. If the services of the Fully Managed Account provisions on the Plan Pricing and Maintenance Services form are purchased, *ICS* agrees that it will not program or configure the Client's web site or usage of the equipment of the owner for which it is a reseller in any manner that violates the above enumerated provisions.

VIII. Software End-User License Agreement

This End-User License Agreement ("EULA") is a legal agreement between you (either an individual or a single entity) and *ICS* for Internet-related services, which includes proprietary software ("SOFTWARE PRODUCT"). The SOFTWARE PRODUCT also includes any updates and supplements to the original SOFTWARE PRODUCT provided to you by *ICS*. Any software provided along with any Internet-related service that is associated with a separate end-user license agreement is licensed to you under the terms of that license agreement. By accessing, downloading, and/or using the SOFTWARE PRODUCT, you agree to be bound by the terms of this EULA. If you do not agree to the terms of this EULA, then you are prohibited from opening an account with *ICS*.

No Other Warranties

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, *ICS* DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, WITH REGARD TO THE SOFTWARE PRODUCT, AND THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT SERVICES. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS. YOU MAY HAVE OTHERS, WHICH VARY FROM STATE/JURISDICTION TO STATE/JURISDICTION.

Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL *ICS* BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, OR ANY OTHER PECUNIARY LOSS) ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE PRODUCT OR THE FAILURE TO PROVIDE SUPPORT SERVICES, EVEN IF *ICS* HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY CASE, *ICS*'s ENTIRE LIABILITY UNDER ANY PROVISION OF THIS EULA SHALL BE LIMITED TO THE GREATER OF THE AMOUNT ACTUALLY PAID BY YOU FOR THE SOFTWARE PRODUCT OR U.S. \$5.00. BECAUSE SOME STATES/JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY, THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

IX. Trademarks & Copyrights:

Client warrants that it has the right to use the applicable trademarks, if any, and grants *ICS* the right to use such trademarks in connection with *ICS*'s service. This includes the right granted by Client to *ICS* to advertise the Client in conjunction with *ICS*'s service.

X. Hardware, Equipment & Software:

The customer is responsible for and must provide all telephone, computer, hardware and software, equipment and services necessary to access *ICS*. This equipment includes a personal computer equipped with a 9600 baud modem or faster or High Speed Internet Service, and Internet access via an ISP ("Internet Service Provider"). *ICS* makes no representations, warranties or assurances that the Customer's equipment will be compatible with the *ICS* service. Client understands that *ICS* is not an ISP and therefore will not provide Internet access for the Client.

XI. Internet Etiquette:

Electronic forums such as mail distribution lists and UseNet news groups all have expectations regarding subject area and appropriate etiquette for posting. Users of these forums should be considerate of the expectations and sensitivities of others on the network when posting material for electronic distribution. The network resources of *ICS* may not be used to impersonate another person or misrepresent authorization to act on behalf of others or *ICS*. All messages transmitted via *ICS* should correctly identify the sender; users may not alter the attribution of origin in electronic mail messages or posting. Users must not attempt to undermine the security or integrity of computing systems or networks and must not attempt to gain unauthorized access.

XII. Service Guarantee

ICS will extend a 30 day conditional money-back guarantee to Client if Client purchased *ICS*'s virtual server domain hosting service. This service guarantee shall begin upon the setup of Client's account and shall expire thirty days later. Client has the right to cancel his/her contract with *ICS* by providing written notice to *ICS* stating the Client's intent to cancel within their 30day period. The written cancellation notice shall entitle the Client to a refund of any monies paid.

ICS will extend a 99% Uptime Guarantee. Subject to the limitations contained herein, *ICS* hereby warrants that the following services will have an average monthly uptime of no less than 99% as determined exclusively by the hosting service for: http, ftp, Control Panel™, Telnet, SSH, SMTP and POP3. The month begins on the first day of each month and continues until the last day of that month. In the event of any loss or interruption of Services resulting in less than 99% uptime in any one month and which is due to (i) causes other than scheduled maintenance and required repairs, (ii) causes beyond the

control of ICS, or (iii) causes which are not reasonably foreseeable by ICS, including, but not limited to, interruption or failure of telecommunication or digital transmission links and Internet slow-downs or failures, Client shall receive, and ICS's sole and exclusive liability for any loss or interruption of Services shall be, a credit equal to one month's Hosting Service of the Client's present Plan fees.

If the Fully Managed Account services on the Plan Pricing and Maintenance Services order form are purchased, *ICS* will complete updates and changes to existing pages and content at the request of Client in a timely manner to the extent that it is possible to make such changes and updates. *ICS* will make every attempt to complete changes to existing page content, such as, interest rates, syntax, or other time critical information as identified by Client, within one (1) full business day (24 hours), Monday through Friday, upon receipt of change request from Client. *ICS* will make every attempt to complete new pages and/or additions to existing page content such as, upcoming promotions, newsletter updates, new products or services or other less time critical information, within two (2) business days (48 hours), Monday through Friday, upon receipt of update request from Client. In the event such changes or updates will take more than the time specified above to complete, *ICS* will notify Client and agree upon an acceptable time of completion. Client agrees to provide *ICS* with all requests for updates via facsimile or via email. *ICS* shall modify all material within a reasonable period of time as specified above and/or agreed upon, or this agreement may be terminated by the Client, pursuant to Section XIII.

1. Limitations

Client is not entitled to any sort of refund due to ignorance of *ICS*'s underlying service or payment policies. This includes, but is not limited to, cancellation because of a three month minimum payment upfront, *ICS* not providing dial-up Internet access, problems registering or transferring any domain, U.S. top-level or foreign, getting programs (CGI scripts) or features (search engines, guest books, etc.) working on the Client's account. Accounts sold through any of *ICS*'s resellers or their resellers are not eligible for a refund of any services under the money-back guarantee. Client may not be entitled to any sort of refund because he/she had violated any one of the seven restrictions outlined in the acceptable uses policy above, even if the Client provided written notice within 30 days for a service-related reason. Client will not be entitled to a refund for cancellation due to the fact that he/she did not read our Acceptable Use Policy and later learned that his/her content violates our acceptable uses. Acts of God, including but not limited to, earthquakes, thunderstorms, or fires which result in an interruption in service are exempt from the service guarantee. Because these circumstances are beyond the control of *ICS*, the service guarantee will be void under these conditions. However, *ICS* will make every good faith effort to reinstate service to Client as quickly as possible.

XIII. Termination:

This Agreement may be terminated by either party, without cause, by giving the other party 30 days written notice. Notwithstanding the above, the Client may terminate service under this Agreement at any time, without penalty, if *ICS* fails to comply with the terms of this Agreement.

Notwithstanding the above, *ICS* may terminate service under this Agreement at any time, without penalty, and collect any termination fees as outlined above if the Client fails to comply with the terms of this Agreement. This written cancellation notice shall entitle the Client to a refund of any monies paid less a prorated amount equal to the monthly fees agreed to times the number of months of service provided plus a \$250 clean-up/disconnection fee. One full month of service begins on the first date on the contract and every subsequent month on the same day of the signed contract date.

XIV. Limited Liability:

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

2. Under no circumstances, including negligence, shall *ICS*, its offices, agents or any one else involved in creating, producing or distributing *ICS*'s service be liable for any direct, indirect, incidental, special or consequential damages that result from the use of or inability to use of *ICS*'s 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 *ICS*'s records, programs or services. Client hereby acknowledges that this paragraph shall apply to all content on *ICS*'s Server service.

3. Notwithstanding the above, Client's exclusive remedies for all damages, losses and causes of actions whether in contract, tort including negligence or otherwise, shall not exceed the aggregate dollar amount which Client paid during the term of this Agreement and any reasonable attorney's fee and court costs.

XV. Indemnification:

Client agrees that it shall defend, indemnify, save and hold *ICS* harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorneys' fees, ("Liabilities") asserted against *ICS*, its agents, its customers, resellers 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 *ICS* against Liabilities arising out of (i) any injury to person or property caused by any products sold or otherwise distributed in connection with *ICS's* equipment; (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 using *ICS's* service.

XVI. Contract Revisions:

Revisions to this Contract will be applicable to previous Contracts. Revisions to the AUP will be provided to Client and made available on the *ICS* website, www.icoso.com, prior to renewal. Revisions will be considered agreed to by the Client upon renewal of *ICS* services as specified in Section I, Financial Arrangements.

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This Agreement constitutes the entire understanding of the parties. Any changes or modifications to this Contract thereto are agreed to by both parties upon renewal of services.

This Agreement shall be governed and construed in accordance with the laws of the State of Indiana and of the Internet.

By completing and signing the *ICS – Hosting Services Order Form*, Client and *ICS* agree to the terms of this AUP as outlined above.