



**104 E. Grove**  
**El Dorado, AR 71730**  
*Ph.870-310-4265*

**Patrick Webb**  
*Owner*

## **Terms And Conditions Agreement**

Below is a list of our policies, terms, and conditions that apply to all of our clients. Please read and sign the statement and return it to us. Thank you for your understanding and we're glad you selected Webb Designs!

The following agreement is between Patrick Webb (here forth known as "Webb Designs"), an Arkansas Company located at 104 E. Grove St., El Dorado, AR, 71730, and you (here forth know as "Client").

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

**WHEREAS**, Client seeks to utilize Webb Designs equipment and software for its own purposes;

**WHEREAS**, the parties acknowledge that the Internet is neither owned nor controlled by any one entity; therefore, Webb Designs can make no guarantee that any given person on-line shall be able to access anyone of Webb Designs's web servers at any given time. Webb Designs 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.

### **II. Financial Arrangements:**

Web hosting requires all monthly, quarterly, and annual fees pre-paid. Consult the price guide to determine the rates for the hosting package used.

### **III. Taxes:**

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

### **IV. Content**

Webb Designs will exercise no control whatsoever over the content of the information passing through the network. Webb Designs makes no warranties or representations of any kind, whether expressed or implied for the service it is providing. Webb Designs 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 Webb Designs is at the Client's own risk, and Webb Designs 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. Webb Designs 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. Webb Designs specifically denies any responsibilities for any damages arising as a consequence of such unavailability.

### **V. 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 website only. Common sense is the best guide as to what is considered acceptable use.

#### **1. Adult Material Restrictions**

Webb Designs forbids websites with adult graphic content (softcore and/or hardcore), including, but not limited to, banners advertising any adult website(s), child pornography, and distribution of adult website passwords. Client's whose accounts are found in violation of this policy may, at the discretion of Webb Designs, have their account(s) terminated without notice and are subject to a maximum \$1,000 clean-up/disconnection fee.

#### **2. File Distribution/Mirroring**

Webb Designs forbids use of service for those who provide mirroring service for other website or websites, and/or whose primary purpose is file distribution. Distribution of executable programs, archive files, or other non-visual file types is not welcome. Clients who are found in violation of this policy may, at the discretion of Webb Designs, have their account(s) terminated without notice or refund.

### 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 Webb Designs, have their account(s) terminated without notice and are subject to a maximum \$1,000 clean-up/disconnection fee.

### 4.Illegal Activity Restrictions

Client's whose website promotes activities that violate federal, state, local laws and/or violation of U.S. export restrictions are also not welcome at Webb Designs. 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 Webb Designs, have their account(s) terminated without notice and are subject to a maximum \$1,000 clean-up/disconnection fee. Additionally, Webb Designs 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 to federal, state, and/or local law enforcement

5. 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 or any domain name hosted with Webb Designs 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 domain name not affiliated or hosted with Webb Designs but the mail message makes mention of a website hosted by Webb Designs.

Trolling, the posting of outrageous messages to generate numerous responses, is also not allowed. Mail Bombing, 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. Webb Designs 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 Webb Designs, have their account(s) terminated without notice and are subject to a maximum \$500 clean-up/disconnection fee.

## 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 website. 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 Webb Designs will notify the Client immediately of the violation. The second violation of this policy may, at the discretion of Webb Designs, result in the Client's account(s) being terminated without notice and a maximum \$1,000 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 website are not in violation of any copyrights. Copyrighted music, in any format, cannot be placed within client's account. Clients agree to indemnify Webb Designs 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 website.

The first violation of this policy will result in the copyrighted material being removed from the Client's account and Webb Designs will notify the Client immediately of the violation. The second violation of this policy may, at the discretion of Webb Designs, result in the Client's account(s) terminated without notice and a maximum \$1,000 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 Webb Designs. 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 Webb Designs, result in the Client's account (s) terminated without notice and a maximum \$1,000 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. Webb Designs has sole discretion over what constitutes excessive usage.

## **VI. Trademarks & Copyrights:**

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

## **VII. Hardware, Equipment & Software:**

The customer is responsible for and must provide all telephone, computer, hardware and software equipment and services necessary to access Webb Designs. This equipment includes a personal computer equipped with a 2400 baud modem or faster, Internet access via an ISP ("Internet Service Provider"). Webb Designs makes no representations, warranties or assurances that the Customer's equipment will be compatible with the Webb Designs service. Client understands that Webb Designs is not an ISP and therefore will not provide dial-up Internet access for the Client

## **VIII. Service Guarantee**

Client is not entitled to any sort of refund due to ignorance of Webb Designs's underlying service or payment policies. This includes, but is not limited to, cancelation because of a twelve month minimum payment upfront Webb Designs 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. Client may not be entitled to any sort of refund because he/she had violated any one of the 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 cancelation due to the fact that he/she did not read our acceptable uses 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 Webb Designs, the service guarantee will be void under these conditions. However, Webb Designs will make every good faith effort to reinstate service to Client as quickly as possible.

## **IX. Termination:**

Either party, without cause, may terminate this Agreement by giving the other party 30 days written notice prior to the renewal period. Notwithstanding the above, Webb Designs 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.

## **X. Limited Liability:**

1. Client expressly agrees that use of Webb Designs' equipment is at Client's sole risk. Neither Webb Designs, its employees, affiliates, agents, third party information providers, warrant that Webb Designs' 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 Webb Designs, unless otherwise expressly stated in this Agreement

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

**XI. Indemnification:**

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

**XII. Contract Revisions:**

Revisions of these Terms and Conditions of Service will not be applicable to previous Contracts. Revisions will be considered agreed to by the Client on renewal of the Webb Designs service.

**XIII: Miscellaneous Provisions**

Both parties, upon renewal of services, agree to any changes or modifications to these Terms and Conditions of Service. These Terms and Conditions of Service shall be governed and construed in accordance with the laws of the State of Arkansas and of the Internet. By placing an order for Webb Designs services, both parties agree to the terms as outlined above.

I accept the terms and conditions stated above:

Signed \_\_\_\_\_

Date: \_\_\_\_\_