

# Website Hosting Agreement

The hosting customer (hereinafter referred to as "**Client** ") is establishing a website hosting account with **West Pro Website Design and Hosting** (hereinafter referred to as "**West Pro**"). **West Pro**, as a **Web Presence Provider** (hereinafter referred to as "**Provider**"), will grant the **Client** website publishing rights and access to the Internet. This agreement covers website hosting services only.

**Space Usage.** **Provider** will allow the specified per plan web space to be used by the **Client** as long as the use is in compliance with the policies set below.

**Bandwidth Usage.** **Provider** will not restrict the bandwidth used by the **Client** as long as the use complies with the policies set below.

**Policies.** **Client** agrees to comply strictly with **Provider's** policies as specified in this agreement. **Client** understands that the services are subject to immediate termination without compensation for non-compliance with the policies. Further, **Client** will be responsible for the full amount of any tangible and intangible damages this may cause. **Provider** reserves the right to change the policies from time to time to reflect the dynamic nature of the Internet.

**Account sharing.** Account sharing is not allowed. **Provider** will terminate immediately and without compensation accounts, which share the web space with others or subdivide and resell the web space.

**Excluded Services.** **Provider** will not provide services and will terminate existing services immediately without compensation if the **Client** 's web site is involved in any of the following: adult sites, copyrights violation, pirated software (warez), pirated music and web sites, whose primary business is web advertisement.

**Price change.** **Provider** has the right to change the price of the services to reflect a change in the cost of the service, or other reasons. In case of price change, **Provider** will send a 30 day advanced notice by email only.

**Start of services.** Services will typically start on the next business day after West Pro receives this signed agreement.

**Quality of Services.** Although the **Provider** will make the best efforts to provide quality and uninterrupted services, this is not guaranteed. **Provider** will not be responsible for any damages a service interruption may cause to the **Client**.

**Fees.** **Client** agrees to pay for the services setup fee and the periodic fee. The setup fee and initial periodic fee are due upon the submittal of this signed agreement.

**Domain Name Registration.** **Provider** will provide domain name registration services, if the **Client** requests them. First year registration fee for one domain is waived for new hosting client. **Client** agrees to pay the registration fees for the domain(s) thereafter. **Client** agrees to pay the registration fee for the first year if the **Client** cancels the service before the expiration of the first year. **West Pro** will establish automatic renewal services for the domain name and lock it against being transferred without permission.

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**Termination of Services.** **Provider** reserves the right to refuse services to anyone and to terminate existing services with 14 days advance notice for any or no reason; and, without advance notice if the **Client** violates the clauses of this agreement. The **Client** has the right to terminate the hosting services at any time with a written notice sent by normal mail to 2274 Hampton Way, Clovis California 93611, or by eMail to **e-billing@westpro.com**. Both parties agree that there will be no monetary compensation for terminated services regardless of the reason. There shall be no refunds nor pro-rating of unused portions of the monthly hosting fee. If the **Client** requests transfer of the domain name to another hosting service, there will be a \$25.00 domain name transfer fee due prior to the transfer.

**Payments.** The monthly hosting fee shall be paid by the **Client** – quarterly, half-year, or annually. **Client** agrees to pay by check, PayPal, or cash. **Client** understands that non-payment will result in automatic "hold" on his/her account. During the hold period, the web site will not be accessible. The account will be "reactivated" after payment in full is received.

**Late Payment.** **Client** agrees to pay a one-time penalty of 6% of the amount due plus \$10 per month for delayed payments.

**Lawful use of Internet.** **Client** agrees to use **Internet** in accordance with the law and with the ethical rules established or to be set up in the future.

**LIMITED LIABILITY.** **Provider** shall not be liable under any circumstances for any special, consequential, incidental or exemplary damages arising out of or in any way connected with this agreement or the product, including but not limited to damages for lost profits, loss of use, lost data, phone bills, communication lines bills, loss of privacy, damages to third party even if **provider** has been advised of the possibility of such damages. The foregoing limitation of liability shall apply whether any claims based upon principles of contract, warranty, negligence or other tort, breach of any statutory duty, principles of indemnity or contribution, the failure of any limited or exclusive remedy to achieve its essential purpose or otherwise. Further, **provider** will not censor any content on the **Internet**. It will be **client** 's responsibility for the usage of his account and any consequences of this usage.

**Indemnification.** **Client** shall indemnify, defend by counsel reasonably accepted by **Provider**, protect and hold **Provider** harmless from and against any and all claims, liabilities, losses, costs, damages, expenses, including consultants' and attorneys' fees and court costs, demands, causes of action, or judgments directly or indirectly arising out of or related to the web hosting and other services provided by **Provider** to the **Client**.

**Security and Integrity of Information.** Although **Provider** implements the latest technology for information protection, there is no guarantee that the information on Internet is absolutely secured or never may be destroyed. **Client** agrees to keep the **Provider** harmless in case of loss of information or loss of privacy.

**Entire Agreement.** This Agreement constitutes the entire understanding and contract between the parties and supersedes any and all prior and contemporaneous, oral or

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written representations, communications, understandings and agreements between the parties with respect to the subject matter hereof, all of which representations, communications, understandings and agreements are hereby canceled to the extent they are not specifically merged herein. The parties acknowledge and agree that neither of the parties is entering into this Agreement based on any representations or promises not expressly contained herein.

**Modification.** This Agreement shall not be modified, amended, canceled or in any way altered, nor may it be modified by custom and usage of trade or course of dealing, except by an instrument in writing and signed by both of the parties hereto.

**Waiver.** Performance of any obligation required of a party thereunder may be waived only by a written waiver signed by the other party, which waiver shall be effective only with respect to the specific obligation described therein. The waiver by either party hereto of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach of the same provision or any other provision of this Agreement.

**Severability.** If any provision of this Agreement shall be unlawful, void, or for any reason, unenforceable, it shall be deemed severable from, and shall in no way affect the validity or enforceability of, the remaining provisions of this Agreement, which shall remain valid and enforceable according to its terms.

**Governing Law.** This Agreement was entered into in the State of California and its validity, construction, interpretation, and legal effect shall be governed by the laws and judicial decisions of the State of California applicable to contracts entered into and performed entirely within the State of California.

**Authority to Execute.** Each of the parties to this Agreement represents and warrants that it has full power to enter into this Agreement and that it hasn't assigned, encumbered, or in any manner transferred all or any portion of the claims covered by this Agreement.

**Benefit of Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of each of the parties hereto, and except as otherwise provided herein, their respective legal successors and permitted assigns.

**Cumulative Remedies.** Except as specifically provided herein, no remedy made available to either party hereunder is intended to be exclusive of any other remedy provided hereunder or available at law or in equity.

**No Partnership or Agency.** Nothing in this Agreement shall be construed as creating a joint venture, partnership, agency, employment relationship, franchise relationship or taxable entity between the parties, nor shall either party have the right, power or authority to create any obligations or duty, express or implied, on behalf of the other party hereto, it being understood that the parties are independent contractors vis-à-vis one another.

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**No Third Party Beneficiaries.** Nothing contained in this Agreement, express or implied, shall be deemed to confer any rights or remedies upon, nor obligate any of the parties hereto, to any person or entity other than such parties, unless so stated to the contrary.

**Excused Performances. Provider** shall not be deemed to be in default of or to have breached any provision of this Agreement as a result of any delay, failure in performance or interruption of the Services, resulting directly or indirectly from acts of God, acts of civil or military authority, civil disturbance, war, strikes or other labor disputes and disturbances, fire, transportation contingencies, shortages of facilities, fuel, energy, labor or materials, or laws, regulations, acts or order of any government agency or official thereof, other catastrophes, or any other circumstances beyond **Provider's** reasonable control. In the event of any such delay or failure, the parties shall defer performance of the Services to a date and time mutually agreeable.

**Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

**Captions.** The section headings and captions contained herein are for reference purposes and convenience only and shall not, in any way, affect the meaning or interpretation of this Agreement.

**Gender.** Where the context so requires, the masculine gender shall include the feminine or neuter, and the singular shall include the plural and the plural the singular.

**Arbitration.** Any dispute arising under this agreement shall be resolved by binding arbitration in the city of Clovis, California and under the rules of the American Arbitration Association.