

# Website Hosting Agreement

This Website Hosting Agreement ("Agreement") is entered into on February 19, 2018 between Jim Pierce's Computer Service,

509 Roderick St, Morgan City, Louisiana, 70380, <http://www.jimpierces.com>,

jimpiercejr@gmail.com, hereinafter referred to as Host and Client -----

-----, hereinafter referred to as "Client. The Host and the Client shall be

collectively referred to as the Parties. Under this Agreement, the Host will provide Web Hosting and related services to Client. The parties agree as follows:

## 1. Acceptance

By accepting this Agreement and using Host's Website Hosting Services ("Services"), Client agrees to be bound by all the terms and conditions of this Agreement.

## 2. Provision of Services

Host agrees to provide Client with website hosting services, consisting of website server space, e-mail capability, internet access, domain name registration, and such additional services, as may be provided by Host from time to time. Host reserves the right to change or modify the features of Client's service plan from time to time on 5 days written or e-mailed notice to Client. Client's continued use of Host's services after receipt of such a notice of modification shall constitute Client's acceptance of and agreement to be bound by the Host's modification of the terms and conditions of this Agreement.

## 3. Agreement Term

The initial term of this Agreement shall commence on the date of execution of this Agreement and shall continue through the remainder of the calendar year in which this Agreement was executed (the "Initial Term"). After the initial term, this Agreement shall be automatically renewed for successive annual periods until terminated by one of the parties as provided in this agreement.

## 4. Termination without Cause

(a) Client may terminate this Agreement at any time, for any reason, by contacting Host, either by phone or e-mail, and requesting that Client's account be canceled. In the event of a cancellation, Host will not refund amounts already billed for the current annual service period in which Client terminates the Agreement. Any amounts paid in advance by Client for future service terms following the current annual service term will be promptly refunded by Host.

(b) Host may terminate this Agreement at any time, for any reason, by providing written or e-mail notice of termination to Client's primary website e-mail contact address no less than 30 days prior to the service termination.

(c) If either Party terminates this Agreement, Host will back up all Client's current Website content, databases, and e-mail messages as an archive file, and send them to Client either as an attachment to an e-mail or via other file transfer process, or mail them to Client in the form of a

CD-ROM.

## **5. Termination for Cause**

Client agrees to abide by the terms of this Agreement and by Host's general use policies as set forth in this Agreement, as those policies may exist from time to time. Host may change its use policies on 5 day written notice to Customer by e-mail message, mail, or facsimile transmission. Any violation by Client of the terms of this Agreement or of Host's general use policies shall be grounds for immediate termination of Client's account for cause. If Host terminates Client's account for a violation of this Agreement, Host shall not be required to refund any amounts billed for the billing period in which Host terminates Client's services.

## **6. Payment Terms**

(a) Client agrees to pay Host an amount of \$300.00 upon execution of this agreement which consists of \$245.00 for the first years Hosting, a one time \$55.00 Hosting Setup Fee. Client agrees to pay Host a deactivation fee of \$0.00. Annual, Quarterly or Monthly Renewal Payments are due 15 days prior to the anniversary date of this contract each year.

## **10. Violations of Network Security**

Client is prohibited from violating or attempting to violate the security of the network. Violations of system or network security may result in civil or criminal liability in addition to immediate termination of Client's agreement. Host will investigate occurrences, which may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting Clients who are involved in such violations. These violations include, without limitation:

- (a) Accessing data not intended for the Client or logging into a server or account that the Client is not authorized to access.
- (b) Attempting to probe, scan, or test the vulnerability of a system or network, or to breach security or authentication measures without proper authorization.
- (c) Attempting to interfere with service to any Client, host or network, including, without limitation, via means of overloading, "flooding," "mail bombing," or "crashing".
- (d) Forging any TCP/IP packet header or any part of the header information in any e-mail or newsgroup posting.
- (e) Taking any action in order to obtain services to which the Client is not entitled.

## **11. Warranty against Unlawful Use**

Client warrants and represents that Client shall use Services only for lawful purposes and in accordance with all valid federal, state, and local laws and regulations governing use of e-mail and the Internet, whether or not specifically prohibited elsewhere in this Agreement. Failure to abide by the terms of this paragraph shall be grounds for immediate termination of Client's account for cause.

## **12. Liability; No Warranty; Limitation of Damages**

(a) Client expressly agrees that use of Services provided by Host is at Client's sole risk.

(b) Host guarantees 99% percent uptime for its Web servers. If uptime for Client's Web server falls below 99% percent during any given month, Host will credit Client Hosting Account as follows: 2%. Any such credit shall be applied to future invoices. This credit shall be Client's sole and exclusive compensation for any downtime or other unavailability of Host's services under this Agreement. Host shall have no liability of any kind for any damages or loss arising as a consequence of such downtime or unavailability.

(c) Host, its agents, affiliates, licensors or the like, do not represent or warrant, expressly or impliedly, that their services 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 their services or as to the accuracy, reliability, or content of any information service or merchandise contained in or provided through their services, unless otherwise expressly stated in this Agreement.

(d) Host, its officers, agents, or anyone else involved in providing services shall not be liable for any direct, indirect, incidental, special, or consequential damages that result from the use or inability to use services; or for any damages that result 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 Host's records, programs, or services.

(e) Host will exercise no control over the content of the information passing through Host's network except those controls expressly provided herein.

(f) Host makes no warranties or representations of any kind, express or implied, for the services it is providing. Host also disclaims any warranty of merchantability or fitness for a particular purpose and will not be responsible for any damages that may be suffered by Client, including loss of data resulting from delays or non-deliveries.

## **13. Patents, Copyrights, Trademarks, and Other Intellectual and Proprietary Rights**

(a) Except for rights expressly granted herein, this Agreement does not transfer any intellectual or other property or proprietary right to Client. Client agrees that all right, title, and interest in any product or service provided to Client belongs to Host. These products and services are only for Client's use in connection with Services provided to Client as outlined in this Agreement.

(b) Client expressly warrants to the Host that Client has the right to use any patented, copyrighted, or trademarked material which Client uses, posts, or otherwise transfers to Host servers.

## **14. Hardware, Equipment, and Software**

Client is responsible for and must provide all phones, phone services, computers, software, hardware, and other services necessary to access Host servers. Host makes no representations, warranties, or assurances that Client's equipment will be compatible with Host Services.

## **15. Age**

Client expressly represents and warrants that Client and any person to whom Client grants access to Client's Host account are at least 18 years of age.

## **16. Indemnification**

Client agrees to defend, indemnify, and hold Host harmless from any and all demands, liabilities, losses, costs, and claims, including reasonable attorneys' fees, asserted against Host, its agents, 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, Client's agents, employees, or assigns. Client further agrees to defend, indemnify, and hold harmless Host against liabilities arising out of:

- (a) Any liability to Host arising by virtue of any use of Host's services by Client for any unlawful purpose, or in violation of any valid federal, state, or local law or regulation governing use of e-mail or the Internet;
  - (b) Any injury to person or property caused by any products sold or otherwise distributed in connection with Services provided to Client;
  - (c) Any material supplied by Client infringing or allegedly infringing on the property or proprietary rights of a third party;
  - (d) Copyright or trademark infringement by Client, or violation by Client of intellectual property rights of any other party; and
  - (e) Any defective product which Client sold or distributed by means of Services.
- Client agrees that the liability limit of Host shall in no event be greater than the aggregate dollar amount which Client paid during the terms of this Agreement, including any reasonable attorneys' fees and court costs.

## **17. Attorneys' Fees**

If any legal action is necessary to enforce the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. This provision shall be construed as applicable to the entire Agreement.

## **18. Notice**

Client agrees to keep Host informed of all current contact information for Client's account. Changes in Client's account information may be reported to Host by e-mail at [jimpiercejr@gmail.com](mailto:jimpiercejr@gmail.com) or on Host's website located at <http://www.jimpierces.com>. Failure to maintain or keep current all contact information shall be a ground for Host to terminate Client's account for cause.

## **19. Governing Law**

This Agreement has been entered into in the State of Louisiana, and its validity, construction, interpretation and legal effect shall be governed by the laws of that state applicable to contracts entered into and performed entirely within that state.

## **20. Severability**

In case any one or more of the provisions of this Agreement be held for any reason to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provisions of this Agreement, and this Agreement shall be construed as if the invalid provision(s) had never been contained in this Agreement, provided that those provision(s) shall be curtailed, limited, or eliminated only to the extent necessary to remove the invalidity, illegality, or unenforceability.

## **21. Waiver**

No waiver by Host of any breach by Client of any provision of this Agreement shall be deemed a waiver of any preceding or succeeding breach of this Agreement. No waiver shall be effective unless it is in writing, and then only to the extent expressly set forth in such writing.

## **22. Entire Agreement**

This Agreement shall constitute the entire agreement between Client and Host, and no other agreement, statement, or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding.

## **23. Signatures**

This Agreement shall be signed on behalf of Jim Pierce's Computer Service by James Pierce Jr., its OWNER, and on behalf of Lynnwood Aucoin by Lynnwood and / or Brandy Aucoin, its Client.

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Jim Pierce's Computer Service  
By James Pierce Jr., its OWNER

CLIENT:

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Lynnwood Aucoin  
By Lynnwood and / or Brandy Aucoin, its Client