

# CyberDivan

## WebSite Hosting Agreement

THIS WEBSITE HOSTING AGREEMENT ("Agreement") is hereby entered into between CYBERDIVAN WEB DESIGN, (THE CYBERDIVAN) and \_\_\_\_\_ ("Customer") on the following terms and conditions:

1. The THE CYBERDIVAN Hosting Service (the "Service") consists of services provided to allow the Customer to offer content on the Internet. These services include space on THE CYBERDIVAN's Internet server to store HTML and related multimedia documents and files, the ability to maintain these pages through one FTP ("File Transfer Protocol") account, and email accounts. The terms and conditions of this agreement and any rules and prices published on THE CYBERDIVAN's Web Site (<http://www.cyberdivan.com>) constitute the entire and only agreement (collectively, the "Service Agreement") between THE CYBERDIVAN and the Customer (hereby defined as one who has an account with THE CYBERDIVAN for the Service, including Customer's designated users with respect to the Service) and supersede all other communications and agreements with regard to the subject matter hereof.

2. Upon notice provided in written, faxed or emailed form to the Customer, THE CYBERDIVAN may modify this Service Agreement or prices, and may discontinue or revise any or all aspects of the Service in its sole discretion without prior notice.

3. Customer agrees to indemnify THE CYBERDIVAN against any liability for any and all use of Customer's account. Furthermore, Customer agrees to indemnify and hold THE CYBERDIVAN harmless from any claims and expenses, including reasonable attorney's fees, related to Customer's violation of the Service Agreement or Customer's direct or indirect damage to another party.

4. Customer is responsible for and must provide all telephone and other equipment and services necessary to maintain customer's account remotely through one FTP account.

5. CUSTOMER EXPRESSLY AGREES THAT USE OF THE CYBERDIVAN'S SERVICE IS AT CUSTOMER'S SOLE RISK. NEITHER THE CYBERDIVAN NOR ANY OF ITS INFORMATION PROVIDERS, LICENSERS, EMPLOYEES, OR AGENTS WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES THE CYBERDIVAN OR ANY OF ITS INFORMATION PROVIDERS, LICENSERS, EMPLOYEES, OR AGENTS MAKE ANY WARRANTY AS TO THE RESULTS TO BE OBTAINED FROM USE OF THE SERVICE. THE SERVICE IS DISTRIBUTED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE, OTHER THAN THOSE WARRANTIES WHICH ARE IMPLIED BY AND INCAPABLE OF EXCLUSION, RESTRICTION, OR MODIFICATION UNDER THE LAWS APPLICABLE TO THIS SERVICE AGREEMENT. NEITHER THE CYBERDIVAN NOR ANYONE ELSE INVOLVED IN CREATING, PRODUCING OR DELIVERING THE SERVICE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF USE OF THE SERVICE OR INABILITY TO USE THE SERVICE OR OUT OF ANY BREACH OF ANY WARRANTY. CUSTOMER EXPRESSLY ACKNOWLEDGES THAT THE PROVISION OF THIS PARAGRAPH SHALL ALSO APPLY TO ALL THIRD PARTY CONTENT AND ANY OTHER CONTENT AVAILABLE THROUGH THE SERVICE.

6. This Service Agreement is made in North Carolina, and shall be governed by and construed in accordance with the laws of the United States of America and of the State of North Carolina. Any cause of action of customer or its designated users with respect to the Service Agreement must be instituted within one year after the claim or cause of action has arisen or be barred.

7. Copyrighted material must not be placed on Customer's account without the permission of the owner(s) or person(s) that they specifically authorize. Only the owner(s) or such authorized person(s) may upload copyrighted material to the account.

8. Customer agrees not to publish on or over its account any information, software or other content which violates or infringes upon the rights of any others or which knowingly contravenes the laws of any jurisdiction in which such content is generally accessible.

9. Use of illegal or copyright material on any web page or other distribution mechanism used in conjunction with the Customer's account, will result in termination of this Service Agreement. Illegal material is defined, as any material not permitted under United States local, state or federal laws. If a client of the Customer without Customer's knowledge submitted illegal material, this Service Agreement will remain in effect if the Customer removes the illegal material.