

## Terms and Conditions - Coaxis International User Agreement

The terms and conditions set forth herein constitute the full and complete agreement between you and Coaxis International, INC ("Coaxis International"). By using Coaxis International consulting services, online services, websites, web services, any software developed by Coaxis International, or any other products or services of Coaxis International (together the "Coaxis International"), you agree to be bound by the terms of this Agreement for use of Coaxis International both past and present. The terms contained herein supersede and replace any other agreement or negotiation between you and Coaxis International, whether oral, written or otherwise, including any statements made to you by any representative of Coaxis International at any time with the sole exception of agreements physically signed by managing partners of Coaxis International and delivered by hand, mail, or FAX.

### 1. FEES

Coaxis International charges Account Set-Up Fees, Service Fees, and Consulting Fees where applicable. All such fees are subject to change with 30 days notice. A list of current fees is available on the Coaxis International website. Unless otherwise specified in any offer or promotion, the fees published on the Coaxis International website are applicable to all transactions between you and Coaxis International. Setup Fees apply from the moment you place an order with Coaxis International. Service Fees apply from the moment the setup work is completed. Consulting Fees apply under the terms of a Consulting Agreement.

Coaxis International reserves the right to offer subsequent promotional rates which may or may not be more favorable than the terms under which you entered this agreement. Any such periodic special rates shall not effect the then existing rights and responsibilities of each party. Coaxis International reserves the right to change the rate charged for any such fee under this agreement with 30 days notice. Promotional offers and rates may not be combined.

To the extent that you qualify for any promotional rates or special offers offered by Coaxis International, these terms and conditions may be modified by the terms and conditions of the promotion or special offer. In such a case, the terms and conditions of the promotion, to the extent they differ from the terms and conditions expressed herein, govern.

Coaxis International charges a non-refundable set up fee as well as its periodic service fee which in some cases may be refundable as further set forth elsewhere herein. Depending on the services you order from Coaxis International, Coaxis International may also charge you for additional fees and specifically reserves the right to institute additional charges upon notice to you. Coaxis International reserves the right to alter, change, amend or delete charges at its sole discretion. Coaxis International further reserves the right to institute new services and charge fees in association with the provision of such new services as it deems appropriate.

Coaxis International does not charge for your use of software when you are using software licenses that you have purchased from a software manufacturer; Coaxis International is in no way renting or sublicensing such software to you. Coaxis International fees are not for use of such software, but for your lease of the hosted computer equipment on which you run such software in addition to fees for maintenance of this computer equipment and support for your use of this computer equipment. Coaxis International charges for your use of software that you lease through Coaxis International, which includes any use of Microsoft Office and does not include any use of Intuit products.

### 2. PAYMENT OF FEES

Payment of Setup Fees and Service Fees must be made by credit card (American Express, Visa, MasterCard, and Discover) or bank transfer (bank transfer is available only upon approval, additional fees may apply). Payment for all Services are due at the commencement of any service period, unless specifically stated otherwise in the offer or promotion pursuant to which you have ordered or are ordering the Coaxis International. All payments shall be made in United States Dollars.

Payment by Credit Card or Bank Transfer: prior to activation of your user account and at any applicable time thereafter you authorize Coaxis International to charge the credit card provided by you or transfer funds from the bank account provided by you for the amount of the fees due for the agreed upon services, together with any applicable set-up charges, registration fees, bank transfer fees, or fees resulting from services provided in addition to or in excess of the previously agreed-upon limits, or any

other charges outlined herein as may be applicable. You further authorize Coaxis International to perform like transactions for all subsequent service period and other applicable fees on or during a reasonable period in advance of the commencement of any such subsequent period until such fees are collected. It is your responsibility to provide Coaxis International with up-to-date credit card or bank transfer information that is sufficient to pay all fees due to Coaxis International when those payments are due. If for any reason the credit card or bank transfer information you provided is insufficient to pay any fees at the commencement of any service period, Coaxis International at its sole discretion will have the right to suspend and/or terminate your account under the TERMINATION section of this Agreement. Refusal or rejection of any charge or any portion thereof is grounds for account suspension and/or termination at the sole option of Coaxis International under the TERMINATION section of this Agreement.

Refunds of Service Fees will be made only for pre-payment of Service fees beyond the renewal date following the effective notice and termination of this agreement under the TERMINATION section of this Agreement provided and only when pre-payment did not result in any discount or waiver of any fees. Coaxis International may grant refunds under any other circumstance it deems appropriate without waiving any other rights hereunder.

### 3. ACCEPTABLE USE

Coaxis International strictly enforces compliance with its acceptable use terms under this ACCEPTABLE USE section. You agree to use the Coaxis International in full compliance with the terms set forth below. Failure to so comply is cause for immediate suspension and possible termination under the TERMINATION section of this Agreement. You agree that:

- a. you will not violate the laws, regulations, ordinances or other such requirements of any applicable Federal, State or local government;
- b. you will not take any action which encourages or consists of any threat of harm of any kind to any person or property;
- c. you agree not to make or attempt any unauthorized access to any Coaxis International or accounts of any Coaxis International customer;
- d. you agree not to make any inappropriate, illegal or otherwise prohibited communication to any Newsgroup, Mailing List, Chat Facility, or other Internet Forum;
- e. you will not transmit any unsolicited commercial or bulk email, will not engage in any activity known or considered to be "spamming" or "Mail Bombing," and you will not carry out any "denial of service" attacks on any other website or internet service;
- f. you will not engage in any activity of any kind that causes harm to minors or to perform any activity which is likely to cause such harm;
- g. you agree not to infringe any copyright, trademark, patent, trade secret, or other proprietary rights of any third party, including, but not limited to, the unauthorized copying of copyrighted material, the digitization and distribution of photographs from magazines, books, or other copyrighted sources, and the unauthorized transmittal of copyrighted software;
- h. you agree not to collect, attempt to collect, publicize, or otherwise disclose personally identifiable information of any person or entity without their express consent (which may be through the person or entity's registration and/or subscription to your services, in which case you must provide a privacy policy which discloses any and all uses of information that you collect) or as otherwise required by law, and you shall maintain records of any such consent throughout the terms of this agreement and for three years thereafter;
- i. you agree not to undertake any action which is harmful or potentially harmful to Coaxis International or its infrastructure.

### 4. SOFTWARE LICENSE AGREEMENTS

You will comply with software license agreements for software that you lease through Coaxis International, such as those of Microsoft Office and the Windows Desktop, and will pay for all use of any such applications.

You will comply with software license agreements for trial software or software that you use through software licenses that you have purchased from a software manufacturer herein called "Manufacturer Licensed Software", such as those of QuickBooks, and that you have legally acquired all such licenses. You grant Coaxis International the right to signal your acceptance of such license agreements for

Manufacturer Licensed Software. You agree that such license agreements are strictly between you and the software manufacturer and that Coaxis International has the right to signal its customers' acceptance of such software license agreements.

You understand and agree that Coaxis International is not offering Manufacturer Licensed Software on an application(s) service provider or time-sharing basis, but that Coaxis International is leasing you a computer on which you run your software for such applications and that the relationship of Coaxis International to such software license agreements is that of a consultant who maintains computers that are either leased or owned by you.

You grant Coaxis International the right to share with the software manufacturer of all Manufacturer Licensed Software your license information including all license-related keys and numbers for all Manufacturer Licensed Software and all related services provided by the software manufacturer.

## 5. INTUIT

QuickBooks Software is (C) 2004-2006, Intuit Inc. All rights reserved. QuickBooks software is hosted by Coaxis International under license from Intuit Inc. Coaxis International is not affiliated with or endorsed by Intuit Inc. Coaxis International is solely responsible for the provision of all services on this website.

In addition to all other terms and conditions herein:

- a. You grant Coaxis International the right to share your QuickBooks license information, including all license-related keys and numbers, payroll keys, and numbers, and number of users for which you provide such licenses, with Intuit for verification and tracking purposes.
- b. you understand and agree that Intuit is not a party to this Coaxis International User Agreement;
- c. you disclaim any liability by Intuit for the provision of QuickBooks hosting by Coaxis International;
- d. you disclaim any warranties by Intuit for the provision of QuickBooks hosting by Coaxis International;
- e. you understand and agree that Intuit is responsible solely for Intuit's software and services and is not responsible for any other products or services offered by Coaxis International or third parties.

## 6. OWNERSHIP OF INTELLECTUAL PROPERTY

Coaxis International makes use of intellectual property of Coaxis International including but not limited to Coaxis International tools and technologies for infrastructure configuration, system virtualization, and customer service. You acknowledge that all right and title to any such Coaxis International property shall remain the sole property of Coaxis International and that you have no right, title or interest therein. You agree not to attempt to reproduce, reverse engineer, decompile, or disassemble any Coaxis International service and you agree that any derivative work is the sole property of Coaxis International.

## 7. TERM

For fee based services, the initial term of this Agreement shall be one (1) month with automatic renewal for each subsequent additional month after the expiration of the initial term (each such month a "Contract Term"). Coaxis International reserves the right to accept pre-payment of renewal periods and may from time to time offer financial incentives for such pre-payment. The Contract Term, however, shall remain one (1) month.

## 8. TERMINATION

For any reason set forth herein or in the event that you breach any term of this agreement, Coaxis International may suspend or terminate your account by deactivating any access to any information contained on the Coaxis International servers related to your account. Suspension hereunder shall specifically include the disabling of your hosted domain and/or any access to information or data related to your account. Service charges will continue to accrue on suspended accounts and you continue to

remain responsible for the payment of any such charges during the period of suspension. Coaxis International reserves the right to terminate your account forthwith and without notice for any breach of this Agreement. **Coaxis International requires 30 days notice to cancel services with Coaxis International.**

This Agreement and all of its terms shall remain in full force and effect until terminated. Termination shall include the removal of any and all of your information from the Coaxis International servers. Such information or data may or may not be made available to you by Coaxis International after any such termination. Automatic renewal of this Agreement may be terminated at any time by either party upon fifteen (15) days notice.

Either party may terminate this Agreement immediately and without further notice for cause. Cause for immediate termination exists (a) if any payment for Coaxis International is more than fifteen (10) days overdue, (b) in case of any material breach of any of the provisions of this Agreement that is not cured within ten (10) days of the breaching party receiving notice thereof from the non-breaching party, or (c) any breach of the provisions of the ACCEPTABLE USE section of this Agreement.

In the event of any termination under this TERMINATION section, any service fees paid in advance beyond the next renewal date following the notice period under that section may be refunded to you. Such a refund shall not include any set-up fees or other fees which are all non-refundable.

Accounts that are thirty (30) days past due shall be automatically suspended. Such accounts are subject to a \$50.00 reactivation fee which shall be paid by Customer prior to reactivation of the account. In addition, account reactivation can require several business days.

All past due and unpaid balances are subject to collection through collection agencies. In the event of such collection action, Customers are liable for costs of collection including but not limited to attorney's fees, court costs, and collection agency fees. Once an account has been submitted to a collection agency for collection, such account shall additionally be subject to a \$100.00 debt collection fee which shall be paid by Customer prior to reactivation of the account.

## 9. NOTICE

Any notice under this Agreement given by Coaxis International to you shall be via email or telephone at the address provided by you to Coaxis International at the commencement of this Agreement or as Coaxis International is subsequently advised. Notice to you at this address is deemed sufficient regardless of your receipt of such email or telephone call.

You warrant that the email and/or telephone address information you have provided to Coaxis International is and will remain accurate. You agree that you will inform Coaxis International of any changes to it within 15 days.

Any notice under this Agreement given by you to Coaxis International shall be via email at **support@coaxis-asp.net** or telephone at 850-219-5734 or FAX at 850-219-5701 or mail at 1650 Summit Lake Drive, Ste. 105, Tallahassee, FL 32317. Notice to Coaxis International by email or telephone address is deemed sufficient only upon confirmation from Coaxis International by email or FAX or registered mail receipt.

## 10. WARRANTIES; LIMITATIONS OF LIABILITY

Coaxis International makes every reasonable effort to maintain operation of the Coaxis International. However because many events and circumstances are beyond the control of Coaxis International, Coaxis International does not in any way warrant or otherwise guarantee the availability of the Coaxis International system or servers and is not responsible for any delay or loss of data, lack of connection, slow connection, or any other such issues whether due to the active or passive negligence of Coaxis International. Coaxis International may, at its sole discretion, limit or deny access to its servers, if, in the judgment of Coaxis International, such limitations or denials of access are required to assure the security of the network, the integrity of the network structure, or to prevent damage to the network, the software or the data stored on the Coaxis International servers.

ALL COAXIS INTERNATIONAL ARE PROVIDED TO YOU ON AN "AS IS" BASIS, AND WITHOUT ANY WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.

Information obtained by you from the Internet may be inaccurate, offensive or in some cases even illegal. With the exception of the content found on Coaxis International websites, Coaxis International has no control over information contained on the Internet. Coaxis International, therefore, accepts no responsibility for any information which you may receive from the Internet. You accept full responsibility to verify the truth and accuracy, legality and ownership of the information that you obtain from the Internet as well as the reputation of the individuals with whom you may deal. Coaxis International provides no warrantee for any goods or services which you obtain over the Internet, nor the compatibility of any such services with the Coaxis International system.

You are solely responsible for ensuring that your login information is utilized only by you or, if applicable, by your authorized employees and agents. Your responsibility includes ensuring the secrecy and strength of your passwords. Coaxis International shall have no liability resulting from the unauthorized use of your login information. If you do not change your password frequently, you increase the risk of your password being discovered by unauthorized parties. If login information is lost, stolen, or used by unauthorized parties, it is your responsibility to notify Coaxis International so that the login can be deactivated and a new one assigned. Coaxis International will use commercially reasonable efforts to affect such deactivation requests as soon as practicable after their receipt from you or your representative.

You specifically hereby waive any claim for damages of any kind whether direct, indirect, special, exemplary, punitive, incidental or consequential, loss of profits or loss of business as the result of any action taken in response to any claim of illegal use of Coaxis International without regard to whether or not the material claimed to have been infringing is later found to be illegal.

THE TOTAL SOLE AND EXCLUSIVE REMEDY AVAILABLE TO YOU AS THE RESULT OF ANY BREACH OF THIS AGREEMENT, NEGLIGENCE, OR ANY ACTION OR FAILURE TO ACT WHETHER INTENTIONAL OR OTHERWISE SHALL BE A SERVICE CREDIT LIMITED TO THE LESSER OF THE PRO-RATED FEE ANY DOWN-TIME OR, IF CANCELLING SERVICE, THE PERIOD OF SERVICE FOR THE REMAINDER OF THE MONTH OF YOUR FIRST ALLEGATION OF ENTITLEMENT TO SUCH REMEDY FOLLOWING SAID ALLEGATION, BUT IN NO EVENT TO EXCEED A SERVICE CREDIT VALUED AT \$100.00. IN NO EVENT SHALL COAXIS INTERNATIONAL BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR LOSS OF BUSINESS AS THE RESULT OF ANY SUCH ACTION OR INACTION WITHOUT REGARD TO THE LIKELIHOOD OF ANY SUCH DAMAGES.

#### 11. INDEMNITY

You agree to fully defend and indemnify and hold harmless Coaxis International of and from any and all third party claims, causes of action, demands, costs, damages including both direct and consequential damages, specifically including attorneys fees and costs, expert fees and costs and mediation and/or arbitration fees and costs incurred (whether paid or not) as the result of any breach or claim of breach of this agreement or your negligence whether active or passive or any negligence of Coaxis International in any way related to your use of the Coaxis International or any portion thereof.

You agree to fully defend and indemnify and hold harmless Coaxis International of and from any and all third party claims, causes of action, demands, costs, damages including both direct and consequential damages, specifically including attorneys fees and costs, expert fees and costs and mediation and/or arbitration fees and costs incurred (whether paid or not) as the result of any violation or claimed violation of any copyright or other intellectual property right of any third party which is in any way related to your use of the Coaxis International or any portion thereof. Choice of counsel remains exclusively that of Coaxis International.

You agree that upon the assignment of your login information such as a username and password that you will maintain the confidentiality of your account information and assume all responsibility of and from any loss, theft or other destruction of any data as the result of any access to your account via the use of your login information. You further agree to defend and indemnify and hold harmless Coaxis International of and from any and all third party claims, causes of action, demands, costs, damages including both direct and consequential damages, specifically including attorneys fees and costs, expert fees and costs

and mediation and/or arbitration fees and costs incurred (whether paid or not) as the result of any claim for damages in any way related to the disclosure of your confidential login information. Choice of counsel remains exclusively that of Coaxis International.

## 12. FORCE MAJEURE / WITHDRAWAL FROM BUSINESS

Either party to this agreement shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to, acts of God, earthquake, labor disputes and strikes, riots, war, and governmental requirements. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the period of time equal to that of the underlying cause of the delay.

In addition to any event of force majeure as described in the foregoing paragraph, Coaxis International may also terminate this Agreement in the event that Coaxis International elects, at its sole discretion, to cease doing business in the United States and/or Canada for economic reasons or for any other reason whatsoever. Customers who, at the time Coaxis International ceases doing business in the United States and/or Canada, are taking advantage of any Coaxis International offer for free services or any other services that were intended to go beyond the date of cessation (hereinafter, the "Extended Services"), may not recover any damages from Coaxis International (or any of its affiliated entities) in the event that they incur costs and expenses related to the cessation of the Extended Services, nor do such customers have, nor may they bring, any claim for repayment of such costs and expenses, including without limitation, fees paid to other hosting services for the balance of time remaining with respect to any Coaxis International offer of Extended Services. Customers receiving Extended Services at the time of cessation of business shall be entitled to a reimbursement of their pre-paid service fees, if any, except for Domain Services Fees, which are in always non-refundable as provided for elsewhere herein.

## 13. ASSIGNMENT

This agreement and the rights hereunder is not assignable or transferable except that Coaxis International may freely assign all of its rights hereunder to any person or entity who shall become a principal owner, or shareholder of Coaxis International, or to any affiliated company or successor in interest of Coaxis International. Any other attempted transfer or assignment of rights hereunder shall be null and void ab initio. Upon any such assignment by Coaxis International to any other party, including to any affiliated company or successor in interest of Coaxis International, you have the right to terminate this Agreement by giving notice thereof in writing to Coaxis International and any such termination shall become effective thirty (30) days after the receipt of such notice by Coaxis International.

## 14. SEVERABILITY

If any term, clause or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to be severed from the Agreement.

## 15. CHOICE OF LAW

This Agreement shall be interpreted under the laws of the State of New Hampshire, without regard to any conflict of laws provisions.

## 16. DISPUTE RESOLUTION

Any claim, dispute or controversy with respect to, in connection with or arising out of this Agreement shall be subject to and decided by arbitration in the City of Nashua, State of New Hampshire, by a panel of three arbitrators. Each Party shall designate one disinterested arbitrator and the two arbitrators so designated shall select a third arbitrator. The persons selected as arbitrators need not be professional arbitrators and persons such as lawyers, accountants, brokers and bankers shall be acceptable, but each shall have substantial experience with respect to information technology and development. The arbitration proceeding shall be conducted in accordance with the commercial arbitration rules of the American Arbitration Association then and there pertaining. Any party may initiate arbitration proceedings hereunder by providing written notice ("Demand for Arbitration") to the other party to such claim, dispute or controversy. A Demand for Arbitration shall be made within a reasonable time after the claim, dispute or controversy has arisen; provided, however, that no Demand for Arbitration may be made after the date

when institution of such claim, dispute or controversy would be barred by the applicable statutes of limitations. Arbitration proceedings shall be commenced within thirty (30) days of such notice or as soon thereafter as practicable, and the arbitrators shall be required to render a written determination within thirty (30) days after the commencement of such arbitration proceedings. The written award of a majority of the arbitrators shall be final and binding upon the parties and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof, including the federal district courts located in the City of Nashua, State of New Hampshire. All costs of any such arbitration shall be borne equally by the parties.

This Section shall not be construed to prohibit either party from seeking preliminary or permanent injunctive relief in any court of competent jurisdiction, however, the arbitrator hearing the dispute to which the injunction pertains will have the power to modify or dissolve any such injunction, or to order additional injunctive relief, in connection with the final arbitration award. The parties, their representatives, other participants, and the mediator and arbitrator shall hold the existence, content, and result of any mediation and arbitration in confidence except to the extent necessary to enforce a final settlement agreement or to obtain and secure enforcement of or a judgment on an arbitration decision and award.

#### 17. TRADEMARKS AND COPYRIGHT

Third party trademarks are property of their respective owners.

All content of this web site is copyright of Coaxis International. You may not copy any content without Coaxis International written permission except under the terms of fair use or as required by law.

#### 18. NO AGENCY

Nothing contained herein shall be interpreted as creating an agency, partnership or joint venture between Coaxis International and you.

#### 19. AMENDMENT

Coaxis International may without advance notice amend this Agreement from time to time, and will do so by posting the new Agreement on the Coaxis International website in place of the old. Each and every such amendment shall become effective immediately for users of Coaxis International including but not limited to all pre-existing and future accounts. It is your responsibility to periodically check the Coaxis International website for updates of this Agreement.

#### 20. MISCELLANEOUS

Our failure to insist upon or enforce strict performance of any provision of this Agreement shall not be construed as a waiver of any provision or right.

If any part of this Agreement is determined to be invalid or unenforceable pursuant to applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of the Agreement shall continue in effect.

Any rights not otherwise expressly granted by this Agreement are reserved by Coaxis International.

I agree to the terms and conditions of this user agreement for Coaxis International

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Signed

Date