

General Information

Terms of Service

This Terms of Services Agreement is made between ICG Link, Inc. and customers who pay for our services. It covers the service dates indicated on paid invoices. This Agreement states the terms and conditions by which ICG Link will deliver, and the customer will receive, the services provided by ICG Link. Each invoice submitted, accepted and executed by both parties is hereby incorporated into this Agreement. This Agreement is intended to cover any and all services ordered by customers and provided by ICG Link. Hosting fees and payment schedules are shown [here](#).

Copyright

All contents on the websites www.icglink.com, www.111webstudio.com, www.icglink.net, www.spam111.com, www.build111.com, www.church111.com, www.bookit111.com, www.contact111.com, www.link111.com and www.suite111.com, including, without limitation, ICG Link's services, software tools, content management systems, hardware design, algorithms, software, user interface designs, architecture, class libraries, objects and documentation, network designs, know-how, trade secrets and any related intellectual property rights throughout the world, including any derivatives, improvements, enhancements or extensions of the above, conceived, reduced to practice or developed during the term of this Agreement, are the property of ICG Link, unless otherwise noted. This Agreement does not transfer from ICG Link to customers any of the aforementioned technology, and all rights, title and interest in and to it will remain solely with ICG Link. Customers agree that they will not, directly or indirectly, reverse-engineer, de-compile, disassemble or otherwise attempt to derive source code or other trade secrets from ICG Link. Customers further agree that they will not, without ICG Link's prior approval, use, copy, download or distribute any material contained on ICG Link's website. ICG Link is not responsible for typographical errors. All trademarks and service-marks are property of ICG Link, unless otherwise noted. The absence of a trademark (TM) or service mark (SM) from a logo does not constitute a waiver of our trademark or other intellectual property rights concerning that name or logo. Mention of third-party products, entities and websites is for informational purposes only and does not constitute either an endorsement or a recommendation by ICG Link.

Limitations on Warranties

Each of ICG Link's guarantees is null and void if the customer fails to follow ICG Link's [Acceptable Use Policy](#) or any other ICG Link policies, or breaches this Agreement in any respect.

ICG Link does not monitor or exercise control over the content of the information transmitted through its facilities. Use of the services or any information that may be obtained therefrom is at the customer's own risk. The services are provided on an 'as is' basis, and the customer's use of the services is at its own risk. ICG Link does not make, and hereby disclaims, any and all other express and/or implied representations or warranties of any kind, whether express or implied, including, without limitation, warranties of merchantability, fitness for a particular purpose, protection from security breaches, non-infringement and title, and any warranties

General Information

arising from a course of dealing, usage or trade practice. ICG Link does not warrant that the services provided will be uninterrupted, error-free or completely secure.

ICG Link does not, and cannot, control the flow of information to or from ICG Link's network and other portions of the Internet. Such flow depends, in large part, on the performance of Internet services provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt Customer's connections to the Internet or its portions. ICG Link cannot guarantee that such events will not occur. Accordingly, ICG Link disclaims any and all liability resulting from or related to such events.

Limitations on Liability

ICG Link shall not be liable for any loss of data resulting from delays, hacking, corruption of data, non-deliveries, mid-deliveries or service interruptions. The customer shall be solely responsible for the selection, use and suitability of ICG Link services, and ICG Link shall have no liability therefor.

Except to the extent of ICG Link's gross negligence or willful misconduct, ICG Link shall not be liable for unauthorized access to ICG Link's or the customer's transmission facilities or premise equipment, or for unauthorized access to, or alteration, theft or destruction of, the customer's data, programs, procedures or information, whether through accident, fraudulent means or devices or any other method, regardless of whether such damage occurs as a result of ICG Link's negligence.

In no event shall ICG Link be liable or responsible to the customer for any type of incidental, punitive, indirect or consequential damages, including, without limitation, lost revenue, lost profits, replacement goods, loss of technology, rights or services, loss or theft of data, or interruption or loss of use of service or equipment, even if advised of the possibility of such damages, whether arising under theory of contract, tort, product liability, strict liability or otherwise.

Notwithstanding anything else to the contrary contained in this Agreement, ICG Link's maximum aggregate liability to the customer for any claim related to, or in connection with, this Agreement, whether in contract, tort or otherwise, shall be limited to the total amount of fees actually paid by Customer to ICG Link for the prior six (6) months.

Electronic Commerce

Customers shall be solely responsible for the development, operation and maintenance of their on-line store and all products, contents and materials in connection with such store, including, without limitation: (a) the accuracy and appropriateness of content and materials appearing within the customer's store or related to the customer's products; (b) ensuring that the content and materials appearing within the store or related to the customer's products do not violate or infringe upon the rights of any third party; and (c) ensuring that the content and materials appearing within the store or related to the customer's products are not

General Information

libelous or otherwise illegal. The customer shall be also solely responsible for the final calculation and application of shipping and sales tax. Furthermore, the customer shall be solely responsible for accepting, processing and filling any of its customer's orders, and for handling any customer inquiries or complaints.

Indemnification

The customer agrees to indemnify and hold ICG Link harmless against any losses, costs, expenses (including, without limitation, reasonable attorneys' fees), claims, damages, liabilities, penalties, actions, proceedings or judgments (collectively, 'Losses') resulting from any claim, suit, action or proceeding brought by a third party against ICG Link or its affiliates, that is related to, or arises out of, (a) The customer's infringement or misappropriation or alleged infringement or misappropriation of any United States copyright, trade secret, patent, trademark or other proprietary right, whether direct or indirect and intentional or non-intentional; or (b) The customer's violation of, or failure to comply with, this Agreement or the [Acceptable Use Policy](#) or any other rules and regulations of ICG Link. The customer further agrees to indemnify ICG Link and its affiliates against any Losses that are related to, or arise out of, any content provided by the customer or the clients or customers of the ICG Link customer, and the customer will reimburse ICG Link and its affiliates for all legal expenses, including, without limitation, reasonable attorneys' fees, incurred by ICG Link and its affiliates in connection with such Losses.

Termination

This Agreement, and the services provided by ICG Link to the customer, may be terminated by either party at any time and for any reason, upon a no less than thirty (30) days' prior written notice to the other party. Regardless of which party terminates this Agreement pursuant to this Section, any and all payment obligations of the customer under this Agreement, for services that ICG Link provided through the date of termination, will immediately become due, and the customer shall be required to pre-pay any services to be rendered by ICG Link during such thirty (30) day period.

Use of Customer's Name & Communications

Customer agrees that, during the term of this Agreement, ICG Link may publicly refer to the customer, orally and in writing, as a customer of ICG Link, in its resumes, client lists and other promotional materials and communications, including, without limitation, press releases, brochures, reports, letters and electronic media, such as e-mail and web pages.

Customer further agrees that ICG Link may send notification or marketing email to customer contacts from time to time. Customer contacts will be removed from ICG Link mailing lists upon request.

Cost Recovery Fee

General Information

During the period beginning with the commencement date for services and ending one year after payment of the final invoice, the customer and any associated individuals, corporations, partnerships or other legal entities which are associated with the customer agree not to solicit and/or offer employment to an employee of ICG Link. Violation of the terms of this clause will be assessed a cost recovery fee equal to 35% of the ICG Link employee's full annual base salary.

Miscellaneous

- ICG Link shall not be deemed to be in default of any provision of this Agreement or be liable for any delay, failure of performance or interruption of the provision of services to Customer that results, directly or indirectly, from any unforeseen or force majeure event.
- ICG Link and the customer agree that, except as otherwise expressly provided in this Agreement, there shall be no third-party beneficiaries to this Agreement, including, without limitation, the insurance providers for either party or the customers of the customer.
- This Agreement is made under and shall be governed by, and construed in accordance with, the laws of the State of Tennessee. The exclusive venue for all legal actions or proceedings relating to this Agreement shall be the state courts in Williamson County, Tennessee and the federal courts for the Middle District of Tennessee at Nashville, and each party consents to such personal jurisdiction and waives all objections thereto.
- In the event that a provision of this Agreement is held, by a tribunal of competent jurisdiction, invalid or contrary to the applicable law, the remaining provisions of this Agreement shall remain in full force and effect.
- The waiver of any breach or default of this Agreement by either party shall not constitute a waiver of any subsequent breach or default, and shall not act to amend or negate the rights of the waiving party.
- Customer shall not sell, assign or transfer its rights or delegate its duties under this Agreement, either in whole or in part, without the prior written consent of ICG Link, and any attempted assignment or delegation without such consent shall be void.
- ICG Link may assign this Agreement in whole or in part. ICG Link may also delegate the performance of certain services to third parties.
- All notices, demands, requests or other communications required or permitted under this Agreement shall be deemed given when delivered personally or upon receipt of delivery of certified or registered mail.
- ICG Link and the customer are independent contractors and this Agreement shall not establish any relationship of partnership, joint ventures, employment, franchise or agency between ICG Link and the customer. Neither ICG Link nor the customer have the power to bind the other or incur obligations on the other's behalf, without the other's prior written consent, except as otherwise stated in this Agreement.
- This Agreement, including all documents incorporated herein by reference, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter.

General Information

- 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. Once signed, a photocopy of this Agreement is considered an original.
- ICG Link shall have the right to modify this Agreement at any time. Notice of such modifications may be given to Customer by posting such changes on ICG Link's website, or by fax, mail or e-mail to the customer.
- ICG Link shall have the right to modify its product line, without notice to the customer.

Execution

An authorized representative of ICG Link and the customer have read the foregoing and all documents incorporated therein, and, by paying for services, agree and accept such terms effective as of the date indicated on the invoice.

Unique solution ID: #1013

Author: Jack Massari

Last update: 2017-02-06 16:33