

Crossover Consulting dba GemTravelSites Terms of Service

The following are the terms and conditions of service for Crossover Consulting, Inc. and GemTravelSites.com. If you do not agree with these terms of service, do not place an order with us.

Updated 11/30/2007

PLEASE READ THESE TERMS OF SERVICE CAREFULLY AS USE OF THE SERVICE CONSTITUTES ACCEPTANCE OF THESE TERMS AND CONDITIONS.

IF YOU DO NOT AGREE, DO NOT ORDER SERVICES.

This Agreement constitutes a legally binding agreement between Crossover Consulting, Inc. (hereinafter referred to as "Crossover Consulting") and the account holder (hereinafter referred to as "User") who agree as follows:

1. Preliminary Statements. Crossover Consulting provides the following as needed services (the "Service"): purchase and registration of a domain name for an individual Web site to be operated hereunder (the "Site"), certain provider services, access to Crossover Consulting technology to allow the creation of a World Wide Web Internet site and hosting services for the Site. User desires to subscribe to the Service on the terms and conditions contained herein.
2. The Service. Crossover Consulting agrees to provide User with the Service that shall include a month-to-month hosting subscription in accordance with the order agreement. Certain Services, including Site hosting services, will be continued on a month to month basis thereafter, unless terminated earlier in accordance herewith.
3. Payment Options.
 1. Your first payment will be due at the time of purchase and will include the setup fee in addition to the first month's payment and a pro-rated amount equal to the exact number of days remaining in the current month. Subsequent payments will be billed automatically to the credit card on file. If your account becomes delinquent past 5 days, Crossover Consulting reserves the right to suspend your Service. If your account becomes delinquent past 10 days, Crossover Consulting reserves the right to terminate your Service. We will collect any delinquent balances, and handling of this collection will be turned over to a collection agency if necessary. If your Service is terminated and you wish to re-establish your Service, you must pay all delinquent balances in full plus a reinstatement fee of \$100.
 2. Setup fees are non-refundable notwithstanding early termination of the Services for any reason.
4. Limitations on User. User agrees to be bound by, and agrees that the Service is subject to, the following limitations:
 1. User shall not upload, post, submit, e-mail or include content, or Internet links to such content, on or to the Site that contain, promote or involve any of the following:
 - i. any infringement or misappropriation of any copyright, trademark, patent, trade secret or other intellectual property right, or any violation of the rights of any third party, including without limitation privacy rights and proprietary rights;

- ii. content that you do not have a right to transmit under any law or under contractual or fiduciary relationship (such as proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements);
- iii. profanity, obscenity, nudity or pornography;
- iv. content that exploits or harms in any way children under 18 years of age;
- v. hate propaganda;
- vi. unlawful, libelous, defamatory, scandalous or inflammatory content;
- vii. racist, threatening, or otherwise abusive content;
- viii. any material that could constitute or encourage conduct that would be considered a criminal offense, give rise to civil liability, or otherwise violate any law.
- ix. mail fraud, multi-level marketing (pyramid) schemes or any other fraudulent activities;
- x. content promoted through the sending of unsolicited e-mail (also known as spamming);
- xi. sending of email in bulk, which is defined as a single email addressed to more than 10 recipients, from any Crossover Consulting server, or any other server that refers to content on the Crossover Consulting server, or sending such e-mail with an Crossover Consulting hosted Web site listed as the contact address;
- xii. warez, cracks, hacks, spam software & their associated utilities;
- xiii. information or other material that contains a virus, worm, time bomb, corrupted data or file or any other software or program that may damage the operation of the Crossover Consulting server or another computer;
- xiv. requests for information from visitors that would constitute a violation of any applicable federal, state, or local statute, regulation or ordinance, including without limitation, the Children's Online Privacy Protection Act of 1998.
- xv. storage of log files or other non-HTML content on the Site.

2. You agree not to use the Service or Site to:

- i. impersonate or otherwise misrepresent Users' affiliation with any other person or entity;
- ii. falsify or delete any attributions, legends, or other proprietary designations of origin or source of anything appearing on the Site or contained in a file that is uploaded to the Crossover Consulting server;
- iii. conduct, display or forward contests or chain letters;
- iv. interfere with or disrupt the Service or servers of networks connected to the Site;
- v. attempt to gain unauthorized access to the Service, other's accounts on the servers of networks connected to the Site, other's files not shared with you, or computer systems or networks connected to the Service, through password mining or any other means;
- vi. stalk or harass another individual; or
- vii. violate any applicable local, state, federal or international law or regulation.

c. User agrees that Crossover Consulting is not responsible for content on pages hosted on member sites and acknowledges that Crossover Consulting does not endorse or verify any such material.

d. User agrees to assume full responsibility for all content associated with the Site that is not provided by the Service and acknowledges that User may be held legally responsible for such content of the Site.

e. A confidential user name and password will be assigned to the User that will be required for establishing and maintaining the Site. User agrees to protect this information in confidence and only disclose it to persons trusted by User. User agrees to sign out and close the Internet browser window following all Site setup and edits. User agrees to promptly notify Crossover Consulting of any loss or theft of User's password or any unauthorized access to the Site setup and edit software.

5. Notice to Officials. If Crossover Consulting determines that law enforcement officials should be notified regarding potentially illegal content on the Site, User agrees that Crossover Consulting may provide copies of User's Web pages to the appropriate officials without notice to user. Crossover Consulting will cooperate with all law enforcement efforts to disclose the identity of or locate persons who have posted content that is illegal or promotes illegal conduct.

6. Policies and Guidelines. User agrees to abide by all requirements, procedures, regulations, policies or guidelines, together with any amendments thereto, set out, from time to time, by Crossover Consulting anywhere on this site.

7. Amendments. User agrees to be bound by any amendments to this Agreement that are set out, from time to time, by Crossover Consulting anywhere on this site.

8. Ownership.

1. Subject to Section 9 below, Crossover Consulting shall own all right, title and interest in Crossover Consulting technology associated with the Site and the Service. Should you choose to cancel your subscription at any time, the respective companies will continue to own the technology, graphics, and images supplied by Crossover Consulting, Inc. for your Site. Crossover Consulting assumes no responsibility for the protection of any data, images or other content uploaded by the User to the Site. You retain ownership of your domain name, data and any images you uploaded to the Site. You may in no way use the Services to develop a Web site with another service provider or on an individual basis.

2. Crossover Consulting and its associated logos, products and services are the property of Crossover Consulting, Inc. You agree not to display or use in any manner these marks without our prior written permission. Any third-party trademarks appearing in connection with the Service is the property of such third-party owner. You may use material found on Crossover Consulting for your personal, non-commercial, and promotional use only, as long as you maintain the appropriate copyright and intellectual property notices. You may not use any

material, images or other items from this site or the Services for public or commercial use without the written permission of Crossover Consulting.

9. License Grant. Crossover Consulting grants you a non-transferable, non-exclusive, worldwide right and license to use, execute, display, and perform the Site and upload, post, submit, and include content on the Site, provided you do not (nor allow any third party to) (i) copy, modify, create a derivative work of or reverse engineer the basic designs, infrastructure or technology of any part of the Site or the Services, or (ii) sell, assign, sublicense, grant a security interest in or transfer in any way any right to the Site or the Services. You agree not to modify the Crossover Consulting technology and basic designs in any form, other than those provided for in the Service. Should you do so, this Agreement may be terminated in the sole discretion of Crossover Consulting. Failure to follow any of the rules of this Agreement will result in a termination of this Agreement.

10. No Representations or Warranties. The Service is offered on an "as is" basis without any representations or warranties of any kind either expressed or implied. For greater certainty and without limitation to the generality of the foregoing:

1. Crossover Consulting makes no representations, warranties or guarantees of any kind whether written or verbal regarding the reliability of the Site provided or the Services offered;
2. Crossover Consulting is not responsible for any deletion, alteration, or loss of data due to network or system outages, file corruption, accidental deletion, or any other reasons;
3. Crossover Consulting makes no representations, warranties or guarantees with regards to server reliability, speed or consistency;
4. Crossover Consulting makes no representations, warranties or guarantees as to the accurateness or correctness of any content on the Site and is not responsible for any errors or omissions arising from the use of such information;
5. Crossover Consulting may also link to or include on its Web resources, information provided by third-party partners and providers, Crossover Consulting does not guarantee or warrant the reliability of this information nor does Crossover Consulting recommend any of these services;

11. Limitation of Liability.

1. Crossover Consulting is not responsible for any failures, delays, or interruptions in the delivery of any content or services contained on the Crossover Consulting server; or losses or damages arising from the use of the content or services provided by Crossover Consulting.
2. Crossover Consulting's liability to User for actual damages for any cause whatsoever, regardless of the form of action, will be limited to a maximum of the fees paid by User to Crossover Consulting, if any, for the prior 12 months.
3. **IN NO EVENT WILL CROSSOVER CONSULTING OR ITS OFFICERS, DIRECTORS, SHAREHOLDERS, PARENTS, SUBSIDIARIES, AFFILIATES, AGENTS OR LICENSORS (COLLECTIVELY, THE "RELATED PARTIES") BE LIABLE FOR**

ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF

PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES OR DAMAGES TO YOUR COMPUTER HARDWARE, DATA, INFORMATION, MATERIALS OR BUSINESS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH: (1) THE SITE; (2) USERS USE OR INABILITY TO USE THE SERVICE, (2) USERS RELIANCE ON ANY CONTENT PROVIDED THROUGH THE SERVICE; (3) ANY GOODS OR SERVICES ADVERTISED IN ANY WAY IN CONNECTION WITH THE SERVICE OR ANY OTHER SERVICES OR PRODUCTS PROVIDED TO USER BY CROSSOVER CONSULTING, WHETHER IN AN ACTION UNDER CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR ANY OTHER THEORY, EVEN IF CROSSOVER CONSULTING OR ANY OF ITS RELATED PARTIES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

4. Because some states/jurisdictions do not allow the exclusion or limitation or liability for consequential or incidental damages, the above limitation may not apply to you.

5. Crossover Consulting and its Related Parties shall in no way be liable to User or anyone else for any loss or injury resulting from use of the Service or the Site.

6. In no event shall Crossover Consulting be liable for any damages, whatsoever, as a result of the notifying any official of potentially illegal content on the Site, providing copies of User's Web pages to the appropriate officials or cooperating with law enforcement efforts to identify or locate persons who have posted content that is illegal or promotes illegal conduct.

7. In no event shall Crossover Consulting be liable for any damages, whatsoever, as a result of the termination of this Agreement for any reason.

12. Indemnity. User agrees to indemnify and hold Crossover Consulting and its Related Parties harmless from and against, and to reimburse Crossover Consulting and its Related Parties with respect to, any and all losses, damages, liabilities, claims, judgments, settlements, fines, costs and expenses (including reasonable related expenses, legal fees and costs of investigation) of every nature whatsoever incurred by Crossover Consulting or its Related Parties by reason of or arising out of or in connection with (i) User's failure to comply with or User's breach of this Agreement; (ii) User's infringement of any copyright, trademark, patent, trade secret or any other intellectual propriety right of any third party; (iii) any content posted by you on the Site; or (iv) User's violation of any applicable law or regulation.

13. Termination.

1. This Agreement takes effect on the date the order is placed with Crossover Consulting and will continue until terminated in accordance herewith.

2. Either Crossover Consulting or User may terminate this Agreement at any time upon providing ten business days' prior notice to the other party; provided however that no termination of this Agreement shall give rise to any claim for reimbursement of any fees previously paid to Crossover Consulting.

3. Crossover Consulting may terminate this Agreement, discontinue the Service and delete the Site at any time without notice to User in any of the following circumstances:

1. User violates any term of this Agreement, any municipal, provincial or federal law or regulation, or any policy or guideline set out, from time to time, by Crossover Consulting anywhere on this site;

2. User engages in conduct or posts material on the Site that Crossover Consulting in its sole discretion believes is harmful to other Users, the business of Crossover Consulting or any third party;

3. User disputes the terms of this Agreement or any amendment set out, from time to time, by Crossover Consulting anywhere on this site.

4. Following termination of this Agreement, for any reason, User agrees not to use the Service or the Site in any manner or for any reason.

4. General.

1. Consent to Breach Not Waived. No term or provision of this Agreement is deemed waived and no breach excused, unless the waiver or consent is in writing and signed by the party that is claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other, whether expressed or implied, does not constitute a consent to, waiver of, or excuse for, any other different or subsequent breach.

2. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of Texas and Crossover Consulting and User consent and agree that all legal proceedings relating to the subject matter of this Agreement shall be maintained in courts sitting within the State of Texas, County of Nueces, and further agree that jurisdiction and venue for such proceedings shall lie exclusively with such courts.

3. Severability. If any provision of this Agreement is held to be invalid, illegal or unenforceable, all other provisions will nevertheless continue in full force and effect.

4. Entire Agreement. This Agreement, together with all policies, guidelines and amendments set out, from time to time, by Crossover Consulting anywhere on this site, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all previous negotiations, proposals, commitments, writings and understandings of any nature whatsoever, whether oral or written.

5. Survival. Any terms and conditions of this Agreement which by their nature extend beyond the term or expiry of this Agreement shall survive the termination or expiry of this Agreement. This includes, without limitation, Article 8 (Ownership), Article 10 (No Representation or Warranty), Article 11 (Limitation of Liability), Article (Indemnity), and this Article 14 (General).

6. Headings. The headings and captions used in this Agreement are inserted only as a matter of convenience and for reference and in no way are to be construed as defining, limiting, or describing the scope or intent of this Agreement.

7. Remedies Cumulative. Unless otherwise set out in this Agreement, the rights and remedies granted to each party under this Agreement are cumulative and are in addition to each party's rights provided by law or otherwise. Each party may exercise its rights concurrently or separately and the exercise of one remedy is not deemed an exclusive election of that remedy or preclude the exercise of any other remedy.

8. Counterparts or Electronic Acceptance. This Agreement may be executed by indicating assent through electronic means or may be executed in counterparts, each of which is deemed to be an original and all of which together are deemed to be one and the same instrument.

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