



END USER AGREEMENT – MANAGED DNS SERVICES

TERMS & CONDITIONS

1. **OWNERSHIP.** The domain name server, software, data and know-how used by Allstream Business Inc.(Allstream) or its licensors in the provision of the Services are owned by Allstream Business Inc. or its licensors, and are protected by copyright and other intellectual property laws. End User agrees that title to and ownership of the Services, in any form, shall at all times and in any event be held exclusively by Allstream Business Inc. or its licensors. End User shall be entitled to only such rights with respect to the Services as are specifically granted. Nothing in this Agreement grants End User any rights to re-sell or create derivative versions of the Services either directly, or through a third party.

2. **WARRANTIES AND DISCLAIMER.** End User represents and warrants that it has all right, title and interest to use any of the data it provides as part of the Services ("Data"). End User represents and warrants that it will not utilize (or allow utilization of) the Services in any manner that: (1) is prohibited by any law or regulation, including the acceptable use policies set forth in Section 6, or (2) will disrupt third parties use or enjoyment of the Services. NEITHER CUSTOMER, NOR ANY OF ITS RESPECTIVE PROVIDERS, LICENSORS, EMPLOYEES OR AGENTS, MAKES ANY WARRANTY AS TO THE RESULTS TO BE OBTAINED FROM USE OF THE SERVICES. THE SERVICES ARE PURCHASED ON THE SOLE BASIS OF THIS WARRANTY AND CUSTOMER AND ITS LICENSORS SPECIFICALLY DISCLAIM ALL OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR OTHERWISE.

3. **LIMITATION OF LIABILITY.** END USER RECOGNIZES THAT THE INTERNET CONSISTS OF MULTIPLE PARTICIPATING NETWORKS WHICH ARE SEPARATELY OWNED AND THEREFORE ARE NOT SUBJECT TO THE CONTROL OF CUSTOMER OR ITS LICENSORS. MALFUNCTION OF, OR CESSATION OF INTERNET SERVICES BY ISPS OR OF ANY OF THE NETWORKS WHICH FORM THE INTERNET MAY MAKE THE SERVICES TEMPORARILY OR PERMANENTLY UNAVAILABLE. END USER AGREES THAT CUSTOMER AND ITS LICENSORS SHALL NOT BE LIABLE FOR DAMAGES INCURRED OR SUMS PAID WHEN THE SERVICES ARE TEMPORARILY OR PERMANENTLY UNAVAILABLE DUE TO MALFUNCTION OF OR CESSATION OF INTERNET SERVICES BY NETWORK (S) OR ISPS NOT SUBJECT TO THE CONTROL OF CUSTOMER OR ITS LICENSORS, OR DUE TO ANY ACCIDENT OR ABUSE BY END USER. NEUSTAR IS NOT LIABLE FOR ANY BREACH OF SECURITY ON END USER'S NETWORK, REGARDLESS OF WHETHER ANY REMEDY PROVIDED IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE. NEITHER CUSTOMER NOR ITS LICENSORS NOR ANYONE ELSE INVOLVED IN CREATING, PRODUCING, DELIVERING (INCLUDING SUSPENDING OR DISCONTINUING SERVICE) OR SUPPORTING THE SERVICE SHALL BE LIABLE TO END USER, ANY REPRESENTATIVE, OR ANY THIRD PARTY FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES ARISING OUT OF USE OF THE SERVICE OR INABILITY TO USE THE SERVICE (INCLUDING CATASTROPHIC SITUATIONS BEYOND THE CONTROL OF CUSTOMER OR ITS SUPPLIERS AND LICENSORS), INCLUDING, WITHOUT LIMITATION, LOST REVENUE, LOST PROFITS, LOSS OF TECHNOLOGY, RIGHTS OR SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER UNDER THEORY OF CONTRACT OR TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE). END USER AGREES THAT IT WILL NOT IN ANY WAY HOLD CUSTOMER OR ITS LICENSORS RESPONSIBLE FOR TRANSMISSION ERRORS IN, CORRUPTION OF, OR THE SECURITY OF CUSTOMER'S INFORMATION CARRIED OVER INTER EXCHANGE CARRIERS', LOCAL EXCHANGE CARRIERS', OR OTHER PROVIDERS' FACILITIES. END USER AGREES THAT IT WILL NOT IN ANYWAY HOLD CUSTOMER OR ITS LICENSORS RESPONSIBLE FOR ANY SELECTION OR RETENTION OF, OR THE ACTS OR OMISSIONS OF, THIRD PARTIES IN CONNECTION WITH THE SERVICE (INCLUDING THOSE WITH WHOM CUSTOMER OR ITS LICENSORS MAY CONTRACT TO OPERATE THE SERVICE).

4. **END USER INDEMNITY.** End User agrees to indemnify, defend and hold Allstream Business Inc. and its licensors, its affiliates or customers, and their respective directors, officers, employees, agents and representatives harmless from and against any and all claims, suits, actions, proceedings, damages, costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") resulting from or in connection with (a) allegations that the Data or End User's web site, products or services infringe or misappropriate any intellectual property rights of a third party; (b) allegations that the Data or End User's web site, products or services contain defamatory, libelous, slanderous, obscene or pornographic materials, or violate a third party's rights of privacy or publicity; (c) allegations arising from a claim by End User's users; or (d) allegations arising out of End User's breach of the "Acceptable Use" provision provided in this Agreement or any other Allstream Business Inc. policy; provided however, End User shall not be obligated to indemnify Allstream Business Inc. or its licensors unless (i) End User is notified promptly and informed fully in writing regarding such action; (ii) End User controls the defense or settlement of such action; and (iii) Allstream Business Inc. or its licensors cooperates reasonably and gives End User all necessary authority, information and

assistance (at End User's expense). End User shall not be responsible for any Losses arising out of any compromise or settlement made by Allstream Business Inc. or its licensors without End User's prior written consent.

5. ACCOUNT MISUSE. In no event will Allstream Business Inc. or its licensors be liable for any unauthorized use or misuse of End User's account number or password. It is End User's responsibility to protect the information provided to it by Allstream Business Inc. or its licensors.

6. ACCEPTABLE USE. End User agrees to use the Services for lawful purposes only. End User agrees not to use the Services for any of the unacceptable purposes set forth below ("Abuses"). Allstream Business Inc. and its licensors reserve the right to terminate End User's or end-user's account or this Agreement if, in Allstream's or its licensors' reasonable determination, (i) a domain hosted by Allstream Business Inc. or its licensors for End User or an end user is found to be pointing or otherwise directing traffic to any material in violation of any applicable law or regulation, and/or (ii) End User or an end user uses the Service(s) to point to web sites or locations that create, transmit, distribute or store material that: violates trademark, copyright, trade secret or other intellectual property laws; violates the privacy, publicity or other personal rights of others; violates U.S. export control laws; impairs the privacy of communications; may be threatening, abusive or hateful; or encourages conduct that would constitute a criminal offense or gives rise to civil liability. Further, any misuse of the Services or resources that disrupts the normal use of Allstream's or its licensor's systems is strictly prohibited. Abusive uses, including facilitating, aiding or encouraging such uses, may lead to termination of End User's or an end user's account or this Agreement. Any attempts to penetrate Allstream Business Inc. or its licensors security will result in the immediate termination of End User's account and Agreement without notice, as well as notification of appropriate law-enforcement agencies. The following violations are grounds for immediate suspension of Service(s) pending an investigation and will result in termination of the account(s) and agreement(s) if, in Allstream's or its licensors' sole judgment, that End User or its end users have originated or is any way responsible for such activities: (i) posting article(s) or substantively similar article(s) to an excessive number of newsgroups using an Allstream, or its licensors, -hosted domain, or posting such messages through the Service; and (ii) sending unsolicited e-mailings, whether or not such activities provoke complaints from the recipients. End User is entirely responsible for all content or information directly or indirectly delivered to or passed through Allstream or its licensors. Allstream and its licensors exercise no control over, and accepts no responsibility for such content or information, including, without limitation, content provided on any third-party Web sites linked to the Allstream Web Site. Any such links are provided for informational purposes only and not as an endorsement by Allstream or its licensors of the contents of such Web sites. Allstream or its licensors do not adopt nor warrant the accuracy of or the content of any linked Web site. Allstream or its licensors reserve the right to suspend or terminate access to the Service(s) upon notice to End User for any Abuses. Failure to promptly correct such Abuses and comply with the policy in this section may result in termination of account(s) with no refunds offered. Indirect or attempted violations of this section, and actual or attempted violation by a third party, shall be considered violation of this policy section.

7. ACCURATE INFORMATION. End User agrees to (1) provide complete, accurate, and current information as requested by Allstream or its licensors and (2) to update this information throughout the term of this Agreement as needed to keep all such information complete, accurate, and current.

8. CONFIDENTIALITY. Any non-public data, information and other materials of a party provided to either party by the other party where such information is marked or otherwise understood as being "proprietary" or "confidential" or the like ("Confidential Information") disclosed by either party ("Disclosing Party") to the other party ("Receiving Party") constitutes the confidential and proprietary information of the Disclosing Party and the Receiving Party agrees to treat all Confidential Information of the Disclosing Party in the same manner as it treats its own similar proprietary information, but in no case will the degree of care be less than reasonable care. The Receiving Party shall retain the Confidential Information in confidence and not use or disclose the Confidential Information to any third party without the Disclosing Party's express written consent; provided, however, these restrictions shall not apply to information which: (i) is already known to the Receiving Party prior to disclosure by the Disclosing Party; (ii) becomes publicly available without fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without restriction as to disclosure, or is approved for release by written authorization of the Disclosing Party; (iv) is developed independently by the Receiving Party without use of or access to the Disclosing Party's Confidential Information; or (v) is required to be disclosed by law or governmental regulation, provided that the Receiving Party provides reasonable notice to Disclosing Party of such required disclosure and reasonably cooperates with the Disclosing Party in limiting such disclosure.

9. MISCELLANEOUS. This Agreement shall be construed and interpreted in accordance with the laws of the Commonwealth of Virginia without regard to its conflict of laws principles. In the event of litigation or any collection activity arising out of the Services or this Agreement, the prevailing party shall be awarded its costs and reasonable expert and attorneys' fees.

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