

## **WCW PARTNERS**

### **Terms and Conditions**

This Terms and Conditions of Use Agreement ("**Agreement**") is a legal agreement between WCW Partners, Inc., a Minnesota corporation whose notice address is contained below and/or any of its affiliates ("**Company**") and each user who has completed the registration process, provided information and/or is using the Company's website ("**User**") located at the domain name www.wcwpartners.com ("**Website**"). If User does not agree to these terms, do not use the services provided by this Website.

By using this Website; visiting or shopping with the Company; or utilizing any service or business offered by the Company, including, but not limited to gift cards, you accept these conditions. Please read them carefully.

#### **TERMS**

Company provides the Website and various related services subject to User's compliance with this Agreement and all the terms, conditions and notices contained or referenced herein, as well as any other written agreement between the Company and User and any posted guidelines or rules applicable to such services or materials that may contain terms and conditions in addition to those in this Agreement that are incorporated by reference ("**Terms of Use**").

#### **ACKNOWLEDGEMENT**

BY COMPLETING THE REGISTRATION PROCESS AND/OR USING THIS WEBSITE, USER AGREES TO BE BOUND BY THESE TERMS OF USE. IF USER DOES NOT WISH TO BE BOUND BY THESE TERMS OF USE, PLEASE EXIT THE WEBSITE NOW. USER'S REMEDY FOR DISSATISFACTION WITH THIS WEBSITE, OR ANY PRODUCTS, SERVICES, CONTENT OR OTHER INFORMATION AVAILABLE ON OR THROUGH THIS WEBSITE, IS TO STOP USING THE WEBSITE AND/OR THOSE PARTICULAR PRODUCTS OR SERVICES. USER'S AGREEMENT WITH COMPANY REGARDING COMPLIANCE WITH THESE TERMS OF USE BECOMES EFFECTIVE IMMEDIATELY UPON COMMENCEMENT OF USER'S USE OF THIS WEBSITE.

Company reserves the right to change these Terms of Use from time to time without notice to User. User acknowledges and agrees that it is User's responsibility to review this Website and these Terms of Use periodically and to be aware of any modifications. User's continued use of this Website after such modifications will constitute User's acknowledgement of the modified Terms of Use and agreement to abide and be bound by the modified Terms of Use. If any of these conditions are deemed invalid, void, or for any reason unenforceable, that condition is deemed severed and does not affect the validity and enforceability of any remaining condition.

Company reserves the sole right to modify or discontinue the Website, including any features included, at any time with or without notice to User. Company shall not be liable to User or any third party if the Company chooses to exercise such right. Modifications may include, without limitation, changes in the pricing structure, the addition of fee-based services or changes to limitations on allowable file sizes. Any new features that augment or enhance the services on the Website are also subject to the Terms of Use. The Website is provided "AS IS" with no warranty of any kind associated with the performance of the Website.

#### **PAYMENT OF FEES**

Fees due by the User for using certain services or purchasing products are either set out in a separate membership agreement or described elsewhere in the Website and are the sole responsibility of the User ("**Fee**"). Any such agreement is incorporated by reference. If User incurs a Fee, User agrees to pay all Fees. Company will bill all Fees to User's credit card or other automatic payment option available and provided to Company by User. User agrees to provide Company with accurate and complete billing information, including valid credit card information, User's name, address and telephone number and to provide Company with any changes in such information within five (5) calendar days of the change. If, for any reason, User's credit card company refuses to pay the Fee, User agrees that Company may require User to pay any unpaid amount due upon demand ("**Default**") by other means acceptable to Company. If legal action is necessary to collect any Fees due, User agrees to reimburse Company for all expenses incurred to recover Fees due, including collection fees, attorney fees and other expenses.

## **PRIVACY**

**Registration Data.** In order to access some of the Services on the Website, User will require a separate account, password and/or other information and data provided to Company in connection with the use of the Website ("**Registration Data**"). By registering, User agrees that all information provided in the Registration Data is true and accurate, the User is at least eighteen (18) years of age and that User will maintain and update this information as required to keep it current, complete and accurate. User grants Company the right to disclose to third parties certain Registration Data about User in accordance with any privacy policy included on the Website, which is specifically incorporated by reference into the Terms of Use.

User is solely responsible for maintaining the confidentiality of User's password and account and for any and all statements made and acts or omissions that occur through the use of User's password and account, including any mail sent and any charges incurred. Therefore, User must take steps to ensure that others do not gain access to User's password and account. Company's personnel will never ask User for User's password. User may not transfer or share User's account with anyone and Company reserves the right to immediately terminate User's account in the event of any unauthorized transfer or sharing.

Each registration is for User's personal use only and not on behalf of any other person or entity. Company does not permit (a) any other person using the registered sections under User's name; or (b) access through a single name being made available to multiple users on a network. User is responsible for preventing such unauthorized use.

**User Data.** Subject to any applicable Company privacy policy, User is solely responsible for the contents of any of User's communications submitted, transmitted, displayed, posted or shared through the Website or to Company, whether by electronic mail or other means, for any reason ("**User Data**"). All User Data will be treated as non-confidential and non-proprietary. Unless otherwise established, User retains all rights in the User Data and grants Company and its designated licensees a non-exclusive, royalty free perpetual, and worldwide right to copy, distribute, display, perform, publish, translate, adapt, modify, and otherwise use such User Data for any purpose, regardless of the form or medium, whether now known or not currently known, in which it is used. User is responsible for ensuring no User Data is confidential, proprietary or in any way related to an unsolicited idea or proposal and User waives any allegation claiming otherwise.

User represents and warrants that User owns or otherwise controls all of the rights to the User Data; that the User Data is accurate; that use of the User Data does not violate this policy and will not cause injury to any person or entity; and that User will indemnify Company for all claims related to the User Data.

By including an email address to Company, User consents to receive electronic communications from the Company. Company will communicate with User by e-mail or by posting notices on this Website. User agrees that all agreements, notices, disclosures and other communications that Company provides to User electronically, satisfies any legal requirement that such communications be in writing. User further agrees that by supplying the User's e-mail to the Company, User consents to receiving e-mail communication from the Company.

## **CONDUCT**

User's use of the Website is subject to all applicable laws and regulations. User agrees not to upload, share, post, or otherwise distribute or facilitate distribution of Content (defined below) that is, or is used, in a manner that is "**Objectionable**," including, without limitation, displaying any Content that is illegal, obscene, threatening, defamatory, invasive of privacy, infringing of intellectual property rights or otherwise injurious to third parties, consists of or contains software viruses, political campaigning, commercial solicitation, chain letters, mass mailings, or any form of "spam," includes a false e-mail address, impersonates any person or entity or otherwise misleads as to the origin of a card or other content. The Company reserves the right, but not the obligation, to remove or edit such content, but does not regularly review posted content.

## **INTELLECTUAL PROPERTY**

“Content” is defined as including, without limitation, information, content, design, compilation, magnetic translation, digital conversion organization, communications, software, photos, video, graphics, music, sounds and other material and services that relate to the Website or that can be viewed by Users on the Website including, without limitation, message boards, chat, other original content, text, communications, software, images, sounds, data, User Data, Registration Data or other information.

By accepting the Terms of Use, User acknowledges and hereby agrees that unless expressly stated otherwise, all Content is solely owned and the property of Company and/or its Affiliates and protected by copyrights, trademarks, service marks, patents and/or other proprietary rights and laws including, without limitation **wcwpartners.com**, [www.wcwpartners.com](http://www.wcwpartners.com), **wcwpartners** and all other names, trademarks, service marks, logos, commercial symbols and styles used by Company in providing its products and/or services (collectively referred to as “**Intellectual Property Rights**”).

User is granted a nonexclusive revocable limited license to access and make personal use of the Website and not to download (other than page caching), except with express written consent of Company. User is granted a limited, revocable, and nonexclusive right to create a hyperlink to the home page of Company so long as the link does not portray Company, or its products or services in a false, misleading, derogatory, or otherwise offensive matter.

User may not use any Company logo or other proprietary graphic or trademark as part of the link without Company’s express written permission. This license does not include any resale or commercial use of this Website or its contents; any collection and use of any product listings, descriptions, or prices; any derivative use of this Website or its contents; any downloading or copying of account information for the benefit of another merchant; or any use of data mining, robots, or similar data gathering and extraction tools. Notwithstanding the foregoing, User may not copy, commercialize, reproduce, modify, republish, upload, post, transmit, or distribute any of the Content from the Website in any form or by any means without prior written permission from Company or the specific content provider. User may not frame or utilize framing techniques to enclose any Intellectual Property Rights of Company without express written consent of Company. User may not use any meta tags or any other "hidden text" using Intellectual Property Rights without the express written consent of Company. User does not acquire ownership rights to any Content. Any unauthorized use of the Content is strictly prohibited and is a violation of the Company’s Intellectual Property Rights that may result in criminal or civil penalties and immediately terminates the permission or license granted by Company.

Neither Company nor the Affiliates warrant or represent that User’s use of the Content or any other materials displayed on, or obtained through, the Website will not infringe the rights of third parties.

## **USE OF MATERIALS**

User acknowledges the value of both the Company’s Intellectual Property Rights and the intellectual property rights of others. If at any time the User believes its copyright, trademark or other property rights have been infringed by a posting on the Website, the User shall immediately send notification to the Company’s “**Designated Agent**” that is identified below.

## **DESIGNATED AGENT**

Pursuant to the Digital Millennium Copyright Act, 17 U.S.C. Sec. 512(c), the Company’s Designated Agent for notice of claims of copyright infringement can be reached as indicated below. Service of repeat infringers of copyright or of users about who repeat claims of copyright infringement are received will be terminated.

Designated Agent for Claimed Infringement:

Morrison Fenske & Sund, P.A.  
David Fenske  
5125 COUNTY ROAD 101, SUITE 202  
MINNETONKA, MN 55345  
(952) 277-0123  
<http://www.wcwpartners.com>

User acknowledges and agrees that upon receipt of a notice of a claim of copyright infringement, Company may immediately remove the identified materials from the Website without liability to User or any other party and that the claims of the complaining party and the party that originally posted the materials will be referred to the United States Copyright Office for adjudication as provided in the Digital Millennium Copyright Act.

#### **DELIVERY**

Most product orders placed with Company are delivered via Fed ex, UPS and USPS, within four (4) business days to two (2) weeks of ordering product. Back orders can take up to six (6) weeks depending on type of product ordered. User will pay all shipping charges for items ordered and returned items. Shipping charges are subject to change without prior notification to User.

#### **RISK OF LOSS**

All items purchased from Company are made pursuant to a shipment contract. This means that the risk of loss and title for such items pass to User upon our delivery to the carrier.

#### **PRODUCT DESCRIPTIONS**

Company attempts to be as accurate as possible. However, Company does not warrant that product descriptions or other content of this website is accurate, complete, reliable, current, or error-free. If a product offered by Company itself is not as described, User's sole remedy is to return the product in unused condition.

#### **THIRD PARTY SITES AND INFORMATION**

The Website may link User to other sites on the Internet or otherwise include references to information, documents, software, materials and/or services provided by other parties. These sites may contain information or material that some people may find inappropriate or offensive. These other sites and parties are not under the Company's control, and User acknowledges that Company is not responsible for the accuracy, copyright compliance, legality, decency or any other aspect of the content of such sites nor is Company responsible for errors or omissions in any references to other parties or their products and services. The inclusion of such a link or reference does not imply endorsement of, or association with, the site or party by Company.

#### **DISCLAIMER OF WARRANTIES AND LIMITATION OF LIABILITY**

THIS SITE AND ALL INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) AND SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO USER THROUGH THIS WEBSITE ARE PROVIDED BY COMPANY ON AN "AS IS" AND "AS AVAILABLE" BASIS, UNLESS OTHERWISE SPECIFIED IN WRITING. COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE OPERATION OF THIS WEBSITE OR THE INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO USER THROUGH THIS WEBSITE, UNLESS OTHERWISE SPECIFIED IN WRITING. USER EXPRESSLY AGREES THAT THE USER'S USE OF THIS WEBSITE IS AT USER'S SOLE RISK.

TO THE FULL EXTENT PERMISSIBLE BY APPLICABLE LAW, COMPANY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT WARRANT THAT THIS WEBSITE; INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO USER THROUGH THIS WEBSITE; THE SERVERS; OR E-MAIL SENT FROM COMPANY ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. COMPANY WILL NOT BE LIABLE FOR ANY DAMAGES OF ANY KIND ARISING FROM THE USE OF THIS WEBSITE OR FROM ANY INFORMATION, CONTENT, MATERIALS, PRODUCTS (INCLUDING SOFTWARE) OR SERVICES INCLUDED ON OR OTHERWISE MADE AVAILABLE TO USER THROUGH THIS WEBSITE, INCLUDING, BUT NOT LIMITED TO DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, AND CONSEQUENTIAL DAMAGES, UNLESS OTHERWISE SPECIFIED IN WRITING.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. IF THESE LAWS APPLY TO YOU, SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

Through User's use of the Website, User may have the opportunities to engage in commercial transactions with other users and vendors. User acknowledges that all transactions relating to any merchandise or services offered by any party, including, but not limited to the purchase terms, payment terms, warranties, guarantees, maintenance and delivery terms relating to such transactions, are agreed to solely between the seller or purchaser of such merchandise and services and User.

COMPANY MAKES NO WARRANTY REGARDING ANY TRANSACTIONS EXECUTED THROUGH, OR IN CONNECTION WITH THE WEBSITE, AND USER UNDERSTANDS AND AGREES THAT SUCH TRANSACTIONS ARE CONDUCTED ENTIRELY AT USER'S OWN RISK. ANY WARRANTY THAT IS PROVIDED IN CONNECTION WITH ANY CONTENT, PRODUCTS, SERVICES, MATERIALS, OR INFORMATION AVAILABLE ON OR THROUGH THE WEBSITE IS PROVIDED SOLELY BY SUCH THIRD PARTY OR THROUGH A SEPARATE ACKNOWLEDGEMENT. COMPANY DOES NOT INCLUDE ANY EXPRESS PRODUCT WARRANTY WITHIN THIS AGREEMENT.

RELATED DAMAGES, WHETHER BASED ON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE WHETHER OR NOT COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE, AND ON ANY THEORY OF LIABILITY, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THE WEBSITE OR OF ANY SITE REFERENCED OR LINKED TO FROM THE WEBSITE.

FURTHER, COMPANY SHALL NOT BE LIABLE IN ANY WAY FOR THIRD PARTY GOODS AND SERVICES OFFERED THROUGH THIS WEBSITE OR FOR ASSISTANCE IN CONDUCTING COMMERCIAL TRANSACTIONS THROUGH THIS WEBSITE INCLUDING, WITHOUT LIMITATION THE PROCESSING OF ORDERS.

SOME JURISDICTIONS PROHIBIT THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO USER.

#### **INDEMNIFICATION**

Upon a request by Company, User agrees to indemnify, defend and hold Company and Company's Affiliates harmless from all liability, loss, claim and expense, including attorney's fees, related to User's violation of the Terms of Use or misuse of the Website. Company hereby reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by User, in which event User will cooperate with Company in asserting any available defenses.

#### **PRIVACY POLICY**

Company's privacy policy, as it may change from time to time, is a part of the Terms of Use. User is solely responsible for reviewing any privacy policy incorporated into the Terms of Use.

## **INTERNATIONAL USE**

Although the Website may be accessible worldwide, Company makes no representation that materials on the Website are appropriate or available for use in locations outside the United States and accessing them from territories where their contents are illegal is prohibited. Users who access the Website from other locations do so on their own initiative and are responsible for compliance with local laws. Any offer for any product, services and/or information made in connection with this Website is void where prohibited.

## **TERMINATION OF USE**

User agrees that Company may, in Company's sole discretion, terminate or suspend User's access to all or part of the Website with or without notice and for any reason, including, without limitation, breach of the Terms of Use. Any suspected fraudulent, abusive or illegal activity may be grounds for terminating User's relationship and may be referred to appropriate law enforcement authorities. Upon termination or suspension, regardless of the reasons therefore, User's right to use the Services available on the Website immediately cease and User acknowledges and agrees that Company may immediately deactivate or delete User's account and all related information and files in User's account and/or bar any further access to such files or the Website. Company is not liable to User or any third party for any claims or damages arising out of any termination or suspension or any other actions taken by Company in connection therewith.

## **ASSIGNMENT**

This Terms of Use Agreement and all incorporated agreements and Registration Data may be automatically assigned by Company in its sole discretion. User may not resell, assign or transfer any of its rights or obligations under the Terms of Use, in whole or in part, without Company's prior written consent and any attempt to so resell, assign or transfer will be null and void.

## **ATTORNEYS' FEES**

In any action, formal or informal, initiated by Company to enforce the Terms of Use, the Company will be entitled to costs and attorneys' fees.

## **INTERPRETATION**

If a court finds any provision of the Terms of Use invalid or unenforceable, the remainder of the Terms of Use shall be interpreted so as to best affect the intent of the Parties or the Parties agree that the maximum period or scope legally permissible under such circumstances will be substituted for the period or scope stated herein.

## **AMENDMENT**

The Terms of Use may be amended at any time by Company without specific notice to User. The latest Terms of Use will be posted on the Website, and User should review this Terms of Use prior to using the Website.

## **APPLICABLE LAW**

By using the Website, User agrees that the laws of the state of Minnesota, without regard to principles of conflict of laws, will govern these Terms of Use and any disputes relating in any way to Company or to products or services sold or distributed by Company and both the Company and User submit to the exclusive personal jurisdiction and venue of the state or federal court in Hennepin County, Minnesota.