

**MobileSex.com**  
**Terms-of-Use Agreement**

**Last Updated: August 14, 2017**

Internet Key, Inc., a New Jersey corporation (the “**Company**”), welcomes you to [www.MobileSex.com](http://www.MobileSex.com) (the “**Website**”), an adult entertainment website. It is important to the Company that you and other visitors have the best possible experience while using the Website, and that, when you use the Website, you understand your legal rights and obligations. Please read this terms-of-use agreement, which is a legal agreement between you and the Company that governs your access to and use of the Website, including any content, functionality, and services offered on or through the Website. Your access to the Website is on the condition that you agree to this agreement. Please pay special attention to the following: (1) **disclaimer of warranties (section 14)**; (2) **limit on liability and exclusion of damages (sections 15 and 16)**; (3) **place for resolving disputes (section 19.2)**; (4) **mandatory mediation and arbitration (sections 20.3 and 20.4)**; (5) **class action waiver (section 20.8)**; and (6) **limitation on time to file disputes (section 20.9)**.

**Section 230(d) Notice:** In accordance with [47 U.S.C. § 230\(d\)](#), you are notified that parental control protections (including computer hardware, software, or filtering services) are commercially available that may help in limiting access to material that is harmful to minors. You may find information about providers of these protections on the Internet by searching “parental control protection” or similar terms.

**Age Restriction:** Only adults (1) who are at least 18-years old and (2) who have reached the age of majority where they live may access the Website. The Company forbids all persons who do not meet these age requirements from accessing the Website. If minors have access to your computer, please restrain their access to sexually explicit material by using any of the following products, which the Company provides for informational purposes only and does not endorse: [CYBERsitter™](#) | [Net Nanny®](#) | [CyberPatrol](#) | [ASACP](#).

**Notice of Explicit Content:** The Website contains content that you may find offensive, indecent, or objectionable, including heterosexual, bisexual, homosexual, and transsexual situations of a sexual nature. This content may or may not be identified as having attributes that you may find offensive. You acknowledge that you use the Website at your own risk, and the Company has no liability to you for any content you view. Content categories, tags, types, genres, and descriptions are provided by users, and the Company does not guarantee their accuracy.

**Child Pornography Prohibited:** The Company prohibits pornographic content involving minors. The Company only allows visual media of consenting adults for consenting adults on the Website. If you see any visual media, real or simulated, depicting minors engaged in sexual activity within the Website, please report this to the Company promptly at [support@internetkey.com](mailto:support@internetkey.com). Please include with your report all appropriate evidence, including the date and time of identification. The Company will promptly investigate all reports and take appropriate action. The Company fully cooperates with any lawenforcement agency investigating child pornography.

**1. Introduction**

- 1.1 This Website provides links to adult webcam sites that contain graphic depictions, nudity, adult language, and descriptions of explicit sexual activity, including heterosexual, bisexual, homosexual, and transsexual situations of a sexual nature

unsuitable for minors. The Company does not upload or post any content to the Website; nor does the Company

host any videos on its servers. Third-party cam sites provide all content found on the Website. The Website may embed content from third-party cam sites or redirect you to the third-party cam sites themselves. While you can use this Website without registering, certain features may be available to registered users only.

- 1.2 This agreement applies to all users of the Website, whether you are a “visitor” or a “registered user.” By registering for an account or accessing any part of the Website, you agree to this agreement. If you do not want to agree to this agreement, you must [leave the Website](#). If you breach any part of this agreement, the Company may revoke your license to access the Website, block your access, and cancel your account (if you have one).

- 1.3 The Company may change this agreement on one or more occasions by updating this page. The top of this page will tell you when the Company last updated this agreement. Changes will take effect on the “last updated” date stated on the top of this page. Changes will not operate retroactively. The Company will try to notify you when it changes this agreement if it can do so in a reasonable manner. But you should frequently check this page to make sure that you are operating under the most current version of this agreement. The Company will consider your continued use of the Website after it posts the changes as your acceptance of the changes even if you do not read them. If you do not agree to the changes, your sole remedy is to stop accessing the Website.

- 1.4 If you have any questions about this agreement or any questions or comments about the Website, please email the Company at [support@internetkey.com](mailto:support@internetkey.com).

## 2. Eligibility Requirements

- 2.1 The Website contains uncensored sexually explicit material unsuitable for minors. Only adults (1) who are at least 18-years old and (2) who have reached the age of majority where they live may access the Website. **If you do not meet these age requirements, you must not access the Website and [must leave now](#).**

- 2.2 By accessing the Website, you state that the following facts are accurate:

- (a) You (1) are at least 18-years old, (2) have reached the age of majority where you live, and (3) have the legal capacity to enter into this agreement;
- (b) All information you provided to the Company is accurate, and you will promptly update this information when necessary to make sure that it remains accurate;
- (c) You are aware of the adult nature of the content available on the Website, and you are not offended by visual images, verbal descriptions, and audio sounds of a sexually oriented nature, which may include graphic visual depictions and descriptions of nudity and sexual activity;

- (d) You are familiar with your community's laws affecting your right to access adult-oriented materials, including sexually explicit material depicting bondage, S/M, and other fetish activities;
- (e) You have the legal right to access adult-oriented materials, including sexually explicit material depicting bondage, S/M, and other fetish activities, and the Company has legal right to transmit them to you;
- (f) You are voluntarily requesting adult-oriented materials for your own private enjoyment;
- (g) You are not accessing the Website from a place, country, or location in which doing so would, or could be considered a violation of any law;
- (h) You will not share these materials with a minor or otherwise make them available to a minor; and
- (i) By accessing the Website, you will have released and discharged the providers, owners, and creators of the Website from all liability that might arise.

### 3. Limited License

#### 3.1 License Grant

The Company hereby grants you a nonexclusive, nonsublicensable, nontransferable license to access the Website and its content for your personal and noncommercial use in accordance with this agreement. For purposes of this section 3.1, the following definitions apply:

- (a) **"Access"** means visit the Website, use its services, and view its content.
- (b) **"Content"** means any material, including the text, software, scripts, graphics, photos, sounds, music, videos, audiovisual combinations, interactive features, communications, profiles, streams, data, and other materials found on the Website.
- (c) **"Personal and noncommercial use"** means a presentation of the content for which no fee or consideration is charged or received, which takes place in your private residence or, if outside your residence, is limited to a private viewing by you. Personal and noncommercial use excludes any public or private event presentation even if no fee is charged.

#### 3.2 License Restrictions

- (a) The license granted in section 3.1 does not include any of the following:
  - (i) resale or commercial use of the Website;

- (ii) distribution, public performance, or public display of the Website or the content;
- (iii) changing or otherwise making any derivative uses of the Website and the content, or any part of the Website or the content, unless the Company specifically authorizes change or derivative use in a separate written agreement with you;
- (iv) use of any data mining, robots, or similar gathering or extraction methods;
- (v) downloading (other than webpage caching) any part of the Website or the content except as permitted on the Website; or
- (vi) any other use of the Website or the content other than for its intended purpose.

(b) Your license to access the Website does not transfer ownership of or title to a copy of any content that you view, and the Company only authorizes you to use your copy in accordance with this agreement. Any use of the Website or the content except as authorized by this agreement will terminate the license granted here. Unauthorized use of the Website or the content also may violate intellectual property laws or other laws. Unless stated here, nothing in this agreement should be construed as conferring any license to intellectual property rights, whether by estoppel, implication, or otherwise. The Company may revoke this license at any time.

#### **4. Intellectual Property Rights**

##### **4.1 Ownership of Website**

The Website and its entire contents, features, and functionality (including all information, software, text, displays, images, video, audio, and audiovisual combinations and the design, selection, and arrangement of it) are owned by the Company, its licensors, or other providers of the material and are protected by copyright, trademark, patent, trade secret, and other intellectual property or proprietary rights laws.

##### **4.2 Trademarks**

The Company's name, logo, and domain name are the trademarks of the Company, and must not be copied, imitated, or used, in whole or in part, without the Company's advance written permission. In addition, all page headers, custom graphics, button icons, and scripts are the Company's service marks, trademarks, and trade dress, and must not be copied, imitated, or use, in whole or in part, without the Company's advance written permission. Other names of actual companies, products, or services mentioned on the Website may be the trademarks of their respective owners and reference to them does not suggest sponsorship, endorsement, or association by or with the Company, or that

those owners endorse or have any affiliation with the Website. Nothing contained on the Website should be construed as granting, by implication or otherwise, any license or right to use any marks displayed on the Website, meta tags, or any other “hidden text” using marks that belong to the Company and its licensors, without advanced written permission from the Company or the third party who may own the mark.

## 5. **Your Account**

### 5.1 **Account Creation**

To access some of the Website’s features, you must register. Registration is free and for a single user only. To register, you must complete the registration process by providing the Company with accurate information as prompted by the registration form. You must also choose a password and a username.

### 5.2 **Responsibility for Account**

You are responsible for maintaining the confidentiality of your password and account. Further, you are responsible for all activities that occur under your account. You will promptly notify the Company of any unauthorized use of your account or any other breach of security.

### 5.3 **Liability for Account Misuse**

The Company will not be liable for any loss that you may incur as a result of someone else using your password or account, either with or without your knowledge. You could be held liable for losses incurred by the Company or another party due to someone else using your account or password.

### 5.4 **Use of Other Accounts**

You must not use anyone else’s account at any time.

### 5.5 **Account Security**

The Company cares about the integrity and security of your personal information. But the Company cannot guarantee that unauthorized third parties will never be able to defeat the Website’s security measures or use any personal information you provide to the Company for improper purposes. You acknowledge that you provide your personal information at your own risk.

### 5.6 **Communication Preferences**

By registering for an account, you consent to receiving electronic communications from the Company relating to your account. These communications may involve sending emails to your email address provided during registration and will include notices about your account and are part of your relationship with the Company. You acknowledge that any

notices, agreements, disclosures, or other communications that the Company sends to you electronically will satisfy any legal communication requirements, including that these communications be in writing. The Company recommends that you keep copies of electronic communications by printing a paper copy or saving an electronic copy. You also consent to receiving certain other communications from the Company, including newsletters about new features and content, special offers, promotional announcements, and customer surveys via email or other methods. You acknowledge that communications you receive from the Company may contain sexually-explicit material unsuitable for minors. If you no longer want to receive certain non-transactional communications, please review the [Privacy Policy](#) regarding opting out of marketing communications or click unsubscribe at the bottom of the email.

## 6. User Conduct

- 6.1 While using the Website, you must comply with all applicable laws and regulations that apply to your access to the Website and its content, including laws relating to the Internet, data, electronic communications, or the sending of technical data exported from the United States or the country where you live.
- 6.2 You must not engage in any of the following prohibited activities:
- (a) copying, distributing, or disclosing any part of the Website in any medium, including by any automated or non-automated “scraping;”
  - (b) using any automated system, including “robots,” “spiders,” “offline readers,” etc., to access the Website;
  - (c) transmitting spam, chain letters, or other unsolicited email;
  - (d) attempting to interfere with, compromise the system integrity or security, or decipher any transmissions to or from the servers running the Website;
  - (e) taking any action that imposes, or may impose at the Company’s sole discretion an unreasonable or disproportionately large load on the Website infrastructure;
  - (f) uploading invalid data, viruses, worms, or other software agents through the Website;
  - (g) collecting or harvesting any personally identifiable information, including account names, from the Website;
  - (h) using the Website for any commercial solicitation purposes;
  - (i) impersonating another person or otherwise misrepresenting your affiliation with a person or entity, conducting fraud, hiding or attempting to hide your identity;
  - (j) interfering with the proper working of the Website;

- (k) accessing any content on the Website through any technology or means other than those provided or authorized by the Website; or
- (l) bypassing the security measures that the Company may use to prevent or restrict access to the Website, including features that prevent or restrict use or copying of any content or enforce limitations on use of the Website or the content located on it.

6.3 The Company may change, limit, or terminate your access if you fail to comply with this section 6. Unauthorized use of the Website or the content may also violate various laws, including copyright and trademark laws, the laws of privacy and publicity, and communications regulations and statutes. The Company will take appropriate action against you for any unauthorized use of the Website or the content, including seeking civil, criminal, or injunctive relief and termination of your access or registration.

## 7. **Links**

The Website contains links to third-party websites or resources. You acknowledge that the Company is not responsible or liable for (1) the availability or accuracy of those websites or resources; or (2) the content, products, or services on or available from those websites or resources. Links to third-party websites or resources do not imply any endorsement by the Company of those websites or resources. You acknowledge sole responsibility for and assume all risk arising from your use of any third-party websites or resources.

## 8. **Third-Party Content**

Through the Website, you will have the ability to access or use content provided by third parties. The Company cannot guarantee that third-party content will be free of material you may find objectionable or otherwise. **The Company will not be liable to you for your access or use of any third-party content.**

## 9. **Changes to the Website; Availability**

9.1 Although the Company may update the content on the Website on one or more occasions, the content is not necessarily complete or up-to-date. Any of the material on the Website may be out of date at any given time, and the Company is not required to update that material. If you believe you have found errors or omissions on the Website, you can bring them to the Company's attention by email at [support@internekey.com](mailto:support@internekey.com).

9.2 While the Company will try to make sure that the Website is always available, it does not guarantee continuous, uninterrupted, or secure access to the Website. Many factors or circumstances outside of the Company's control may interfere with or adversely affect its operation of the Website.

## 10. **Privacy**

For information about how the Company collects, uses, and shares your information, please review the [Privacy Policy](#). You acknowledge that by using the Website, you consent to the collection, use, and sharing (as set out in the Privacy Policy) of this information, including the transfer of this information to the United States or other countries for storage, processing, and use by the Company.

## 11. **Copyright Policy**

11.1 The Company respects the intellectual property rights of others and expect users of the Website to do the same. The Company will respond to notices of alleged copyright infringement that comply with law and are properly provided to the Company. If you believe that your content has been copied in a way that constitutes copyright infringement, please provide the Company's copyright agent with the following information in accordance with the Digital Millennium Copyright Act (DMCA):

- (a) a physical or electronic signature of the copyright owner or a person authorized to act on their behalf;
- (b) identification of the copyrighted work claimed to have been infringed;
- (c) identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the Company to locate the material;
- (d) your contact information, including your address, telephone number, and an email address;
- (e) a statement by you that you have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- (f) a statement that the information in the notification is accurate, and, under penalty of perjury, that you are authorized to act on behalf of the copyright owner.

11.2 It is the Company's policy in appropriate circumstances to disable or to terminate the user accounts of repeat infringers in accordance with the Company's "Repeat Infringer" Policy. A copy of the Company's "Repeat Infringer" Policy is available on request.

## 12. **Termination**

### 12.1 **Termination on Notice**

Either party may terminate this agreement at any time by notifying the other party.

### 12.2 **Termination by the Company**



The Company may suspend, disable, or cancel your access to the Website (or any part of it) if it determines that you have breached this agreement or that your conduct would tend to damage the Company's reputation and goodwill. If the Company terminates your access for any of these reasons, you must not access the Website. The Company may block your email address and IP address to prevent further access.

**12.3 Effect of Termination**

On termination, your right to access the Website and all licenses granted by the Company terminates. Termination of your access to the Website will not relieve you of any obligations arising or accruing before termination or limit any liability that you otherwise may have to the Company or any third party.

**12.4 Survival**

This agreement's provisions that by their nature should survive termination will survive termination.

**13. Compliance with Law**

The Website is hosted in the United States. The Company is not making any statement that the Website or any of its content is accessible or appropriate outside of the United States. Access to the Website might not be legal by certain persons or in certain countries. If you access the Website from outside the United States, you do so on your own initiative and are responsible for complying with all local laws. If you access the Website in a jurisdiction that prohibits or restricts its use, the Company will not have any liability to you for your use.

**14. Acknowledgments and Disclaimers**

14.1 You acknowledge that the Company cannot and does not state that files available for downloading from the Internet or the Website will be free from loss, corruption, attack, viruses or other destructive code, interference, hacking, or other security intrusions. You are responsible for implementing sufficient procedures and checkpoints to satisfy your particular requirements for antivirus protection and accuracy of data input and output, and for keeping a means external to the Website for any reconstruction of any lost data. The Company will not be liable for any loss or damage caused by a distributed denial-of-service (DDoS) attack, viruses, or other technologically harmful material that might infect your computer equipment, computer programs, data, or other proprietary material due to your use of the Website or any services or items obtained through the Website or to your downloading of any material posted on the Website, or on any website linked to the Website.

14.2 You acknowledge that you may be exposed to content that is inaccurate, offensive, indecent, or objectionable, and you hereby waive any legal or equitable rights or remedies you have or may have against the Company with respect to this content.

- 14.3 You acknowledge that the Website includes content provided by third parties, including materials provided by other users, third-party licensors, syndicators, or aggregators (“*third-party materials*”). All statements or opinions expressed in third-party materials, and all responses to questions and other content, other than the content provided by the Company, are solely the opinions and the responsibility of the person providing thirdparty materials. Third-party materials do not reflect the opinion of the Company. The Company will not be liable to you or any other person for the content or accuracy of any third-party materials.
- 14.4 The Company will use reasonable efforts to protect information submitted by you in connection with the Website, but you acknowledge that your submission of this information is at your sole risk, and the Company will not be liable to you for any loss relating to that information.
- 14.5 Your use of the Website, its content, and any services or items obtained through the Website is at your own risk. The Company provides the Website, its content, and any services or items obtained through the Website “as is,” “with all faults,” and “as available,” without making any warranty, either express or implied. The Company is not making any warranty (1) that the Website, its content, or any services or items obtained through the Website will be accurate, reliable, error-free, or uninterrupted; (2) that defects will be corrected; (3) that the Website or the server that makes it available are free of viruses or other harmful components; or (4) that the Website or any services or items obtained through the Website will otherwise meet your needs or expectations.
- 14.6 The Company is not making any warranty, whether express, implied, statutory, or otherwise, including warranty of merchantability, title, noninfringement, privacy, security, and fitness for a particular purpose. No advice or information, whether oral or written, obtained from the Company, the Website, or elsewhere will create any warranty not expressly stated in this agreement.

15. **Limit on Liability; Release**

- 15.1 The Company, its directors, officers, employees, agents, subsidiaries, affiliates, licensors, content providers, and service providers will not be liable to you for any of the following:
- (a) Errors, mistakes, or inaccuracies of content;
  - (b) Personal injury or property damage resulting from your access to and use of the Website or its content;
  - (c) Content or conduct that is infringing, inaccurate, obscene, indecent, offensive, threatening, harassing, defamatory, libelous, abusive, invasive of privacy, or illegal;
  - (d) Unauthorized access to or use of the Company’s servers and any personal or financial information stored in them, including unauthorized access or changes to your account, submissions, transmissions, or data;

- (e) Interruption or cessation of transmission to or from the Website;
- (f) Bugs, viruses, Trojan horses, malware, ransomware, or other disabling code that may be transmitted to or through the Website by any person or that might infect your computer or affect your access to or use of the Website, your other services, hardware, or software;
- (g) Incompatibility between the Website and your other services, hardware, or software;
- (h) Delays or failures you might experience in starting, conducting, or completing any transmissions to or transactions with the Website; or
- (i) Loss or damage incurred because of the use of any content posted, emailed, sent, or otherwise made available through the Website.

15.2 You hereby release the Company, its directors, officers, employees, agents, subsidiaries, affiliates, licensors, content providers, and service providers from all liability arising out of the conduct of other users or third parties, including disputes between you and one or more third parties.

**16. Exclusion of Damages; Exclusive Remedy**

16.1 Unless caused by gross negligence or intentional misconduct, the Company, its directors, officers, employees, agents, subsidiaries, affiliates, licensors, content providers, and service providers will not be liable to you for any direct, indirect, special (including so-called consequential damages), statutory, punitive, or exemplary damages arising out of or relating to your access or your inability to access the Website or the content. This exclusion applies regardless of theory of liability and even if you told the Company about the possibility of these damages or the Company knew or should have known about the possibility of these damages.

16.2 The Company, its directors, officers, employees, agents, subsidiaries, affiliates, licensors, content providers, and service providers will not be liable to you for any damages for (1) personal injury, (2) pain and suffering, (3) emotional distress, (4) loss of revenue, (5) loss of profits, (6) loss of business or anticipated savings, (7) loss of use, (8) loss of goodwill, (9) loss of data, (10) loss of privacy, or (11) computer failure related to your access of or your inability to access the Website or the content. This exclusion applies regardless of theory of liability and even if you told the Company about the possibility of these damages or the Company knew or should have known about the possibility of these damages.

16.3 If you are dissatisfied with the Website or have any other complaint, your exclusive remedy is to stop using the Website. The maximum liability of the Company and its directors, officers, employees, agents, subsidiaries, affiliates, licensors, content providers, and service providers to you for any claim will not exceed \$100 even if the remedy fails of its essential purpose.

**17. Scope of Disclaimers, Exclusions, and Limits**

The disclaimers, exclusions, and limits stated in sections 14, 15, and 16 apply to the greatest extent allowed by law, but no more. The Company does not intend to deprive you of any mandatory protections provided to you by law. Because some jurisdictions may prohibit the disclaimer of some warranties, the exclusion of some damages, or other matters, one or more of the disclaimers, exclusions, or limits will not apply to you.

## 18. Indemnification

### 18.1 In General

You will pay the Company, its directors, officers, employees, agents, contractors, subsidiaries, affiliates, licensors, content providers, and service providers (the “**Indemnified Parties**”) for any loss of the Indemnified Parties’ that is caused by any of the following:

- (a) your actual or alleged access of or conduct on the Website;
- (b) your breach of this agreement;
- (c) your actual or alleged violation of rights of any person, including intellectual property, publicity, and privacy rights;
- (d) your actual or alleged violation of any applicable law;
- (e) your actual or alleged tortious conduct; or
- (f) your actual or alleged criminal conduct.

But you are not required to pay if the loss was caused by the Indemnified Parties’ actual intentional misconduct.

### 18.2 Definitions

- (a) “**Loss**” means an amount that the Indemnified Parties are legally responsible for or pay in any form. Amounts include, for example, a judgment, a settlement, a fine, damages, injunctive relief, staff compensation, a decrease in property value, and expenses for defending against a claim for a loss (including fees for legal counsel, expert witnesses, and other advisers). A loss can be tangible or intangible; can arise from bodily injury, property damage, or other causes; can be based on tort, breach of contract, or any other theory of recovery; and includes incidental, direct, and consequential damages.
- (b) A loss is “**caused by**” an event if the loss would not have happened without the event, even if the event is not a proximate cause of the loss.

### 18.3 Indemnified Parties’ Duty to Notify You

If the Indemnified Party has your contact information, the Indemnified Party will notify you before the 30th day after the Indemnified Party knows or should reasonably have known of a claim for a loss that you might be compelled to pay. But the Indemnified Party's failure to give you timely notice does not end your obligation, except if that failure prejudices your ability to defend or mitigate losses.

#### 18.4 **Legal Defense of a Claim**

The Indemnified Party has control over defending a claim for a loss (including settling it), unless the Indemnified Party directs you to control the defense. If the Indemnified Party directs you to control the defense, you will not settle any litigation without the Indemnified Party's written consent if the settlement (1) imposes a penalty or limitation on the Indemnified Party, (2) admits the Indemnified Party's fault, or (3) does not fully release the Indemnified Party from liability. You and the Indemnified Party will cooperate with each other in good faith on a claim.

#### 18.5 **No Exclusivity**

The Indemnified Parties' rights under this section 18 do not affect other rights they might have.

### 19. **Governing Law; Place for Resolving Disputes**

19.1 The laws of the state of New Jersey—without giving effect to any conflicts of law principles—govern all matters arising out of or relating to the Website or this agreement. The predominant purpose of this agreement is providing services and licensing access to intellectual property and not a “sale of goods.” This agreement will not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

19.2 Except for disputes subject to arbitration, all disputes arising out of or relating to the Website or this agreement will be subject to the exclusive jurisdiction and venue of the United States District Court for the District of New Jersey or any state court in New Jersey. Each party hereby submits to the personal jurisdiction of the United States District Court for the District of New Jersey and the state courts in New Jersey to resolve all disputes not subject to arbitration. Each party hereby waives any right to seek another forum or venue because of improper or inconvenient forum.

19.3 For purposes of this section 19, the Website will be deemed solely based in the state of New Jersey and will be deemed a passive website that does not give rise to personal jurisdiction over the Company, either specific or general, in any other jurisdiction.

### 20. **Dispute Resolution**

#### 20.1 **Litigation Election**

Either party may elect to litigate the following type of case or controversy: (a) an action seeking injunctive relief, or (b) a suit to compel compliance with this dispute resolution process.

## 20.2 **Negotiation**

Each party will allow the other a reasonable opportunity to comply before it claims that the other has not met the duties under this agreement. The parties will first meet and negotiate with each other in good faith to try to resolve all disputes between the parties arising out of or relating to the Website.

## 20.3 **Mediation**

- (a) If the parties cannot settle a dispute arising out of or relating to the Website through negotiation after 30 days, either party may, by notice to the other party and the International Institute of Conflict Prevention & Resolution (“CPR”), demand mediation under the Mediation Procedure of CPR. Mediation will take place in Keyport, New Jersey. Each party will bear its own costs in mediation, and the parties will share equally between them all third-party mediation costs unless the parties agree differently in writing. Each party will participate actively and constructively in mediation proceedings once started and will attend at least one joint meeting between the mediator and the parties. Any party may terminate mediation at any time after an initial meeting between the mediator and the parties.
- (b) Alternatively, in the interest of cost savings and expediency, the parties may mutually agree in writing to mediate this matter online through Arbitration Resolution Services, Inc. (ARS) rather than face to face. If so, then the parties will abide by the mediation rules of ARS as found on its website at [www.arbresolutions.com/mediationrules](http://www.arbresolutions.com/mediationrules). All other of this section 20.3 will still apply to the ARS mediation.

## 20.4 **Arbitration**

### (a) **Procedure**

**If the parties cannot settle a dispute through mediation, the parties will settle any unresolved dispute arising out of or relating to the Website by binding arbitration administered by CPR in accordance with its Rules for Administered Arbitration. A single arbitrator will preside over the arbitration. The arbitrator, and not any federal, state, or local court or agency, will have exclusive authority to resolve all disputes arising out of or relating to the interpretation, enforceability, or formation of this agreement, including any claim that all or any part of this agreement is void or voidable.**

### (b) **Location**

Unless the parties agree otherwise, the arbitration will take place in Keyport, New Jersey.

(c) **Fees**

Each party will be responsible for paying any filing, administrative, and arbitrator fees associated with the arbitration.

(d) **Award**

The arbitrator may grant whatever relief that would be available in a court at law or in equity, except that the arbitrator must not award punitive or exemplary damages, or damages otherwise limited or excluded in this agreement. In accordance with section 20.6, the arbitrator's award will include costs of arbitration, reasonable legal fees, and reasonable costs for expert and other witnesses. The arbitrator's award will be binding on the parties and may be entered as a judgment in any court of competent jurisdiction.

(e) **Confidentiality**

Unless required by law, neither a party nor an arbitrator will disclose the existence, content, or results of any arbitration under this agreement without the advance written consent of both parties.

(f) **Alternative Online Arbitration**

Alternatively, in the interest of cost savings and expediency, in lieu of arbitration through CPR, the parties may mutually agree in writing to arbitrate this matter online through Arbitration Resolution Services, Inc. (ARS) rather than face to face. If so, then the parties will abide by the rules of ARS as found on its website at [www.arbresolutions.com/rules-regulations-business-to-business-program](http://www.arbresolutions.com/rules-regulations-business-to-business-program). All other provisions of this section 20.4 will still apply to the ARS arbitration.

20.5 **Right to Injunctive Relief**

Nothing in this section 20 will prevent either party from seeking injunctive or other equitable relief from the courts for matters related to data security, intellectual property, or unauthorized access to the Website.

20.6 **Recovery of Expenses**

In any proceedings between the parties arising out of this agreement or relating to the subject matter of this agreement, the prevailing party will be entitled to recover from the other party, besides any other relief awarded, all expenses that the prevailing party incurs in those proceedings, including legal fees and expenses. "**Prevailing party**" means, for any proceeding, the party in whose favor an award is rendered, except that if in those proceedings the award finds in favor of one party on one or more claims or counterclaims

and in favor of the other party on one or more other claims or counterclaims, neither party will be the prevailing party. If any proceedings are voluntarily dismissed or are dismissed as part of settlement of that dispute, neither party will be the prevailing party in those proceedings.

20.7 **Jury Trial Waiver**

**Both parties hereby waive the right to a trial by jury for any dispute arising out of or relating to the Website. Either party may enforce this waiver up to and including the first day of trial.**

20.8 **Class Action Waiver**

**All claims must be brought in the parties' individual capacity, and not as a plaintiff or class member in any purported class or representative proceeding, and, unless the Company agrees otherwise, the arbitrator will not consolidate more than one person's claims. Both parties acknowledge that each party is waiving the right to participate in a class action.**

20.9 **Limitation on Time to Bring Claims**

**A party will not file a claim arising out of or relating to the Website more than one year after the cause of action arose. Any claim brought after one year is barred.**

21. **General**

21.1 **Entire Agreement**

This agreement constitutes the entire agreement between you and the Company about your access to the Website. It supersedes all earlier or contemporaneous agreements between you and the Company about access to the Website. A printed version of this agreement will be admissible in any proceedings arising out of (or relating to) this agreement to the same extent and subject to the same conditions as other business documents and records originally generated and kept in printed form.

21.2 **Copy of this Agreement**

You may—and the Company recommends that you—print this agreement on your printer or save them to your computer. If you have trouble printing a copy, please contact the Company at [support@internekey.com](mailto:support@internekey.com) and the Company will email you a copy.

21.3 **Changes**

The Company may change this agreement on one or more occasions. The Company will try to post changes on the Website at least 15 days before they become effective. Changes will become effective on the “last updated” date stated at the top of this page. **Changes will not apply to continuing disputes or to disputes arising out of (or relating to) events**



**happening before the posted changes.** While the Company will try to notify you when the Company changes this agreement, the Company does not assume an obligation to do so, and it is your responsibility to frequently check this page to review the most current agreement. **By continuing to use the Website after the Company posts changes to this agreement, you agree to the revised agreement.** If you do not agree to the revised agreement, your exclusive remedy is to stop accessing the Website. If you need more information about the changes or have any other questions or comments about the changes, please contact the Company at [support@internekey.com](mailto:support@internekey.com).

#### 21.4 **Assignment and Delegation**

The Company may assign its rights or delegate any performance under this agreement without your consent. You will not assign your rights or delegate your performance under this agreement without the Company's advanced written consent. Any attempted assignment of rights or delegation of performance in breach of this section 21.4 is void.

#### 21.5 **No Waivers**

The parties may waive a provision in this agreement only by a writing signed by the party or parties against whom the waiver is sought to be enforced. No failure or delay in exercising any right or remedy, or in requiring the satisfaction of any condition, under this agreement, and no act, omission, or course of dealing between the parties, operates as a waiver or estoppel of any right, remedy, or condition. A waiver made in writing on one occasion is effective only in that instance and only for the purpose stated. A waiver once given is not to be construed as a waiver on any future occasion or against any other person.

#### 21.6 **Severability**

The parties intend as follows:

- (a) that if any provision of this agreement is held to be unenforceable, then that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded;
- (b) that if modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this agreement, the entire agreement will be held unenforceable;
- (c) that if an unenforceable provision is modified or disregarded in accordance with this section 21.6, then the rest of the agreement will remain in effect as written; and
- (d) that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.

## 21.7 Notices

### (a) Sending Notice to the Company

You may send notice to the Company by email at [support@internetkey.com](mailto:support@internetkey.com) unless a specific email address is set out for giving notice. The Company will consider an email notice received by the Company only when its server sends a return message to you acknowledging receipt. The Company may change its contact information on one or more occasions by posting the change on the Website. Please check the Website for the most current information for sending notice to the Company.

### (b) Sending Notice to You—Electronic Notice

**You consent to receiving any notice from the Company in electronic form either (1) by email to the last known email address the Company has for you or (2) by posting the notice on a place on the Website chosen for this purpose.** The Company will consider notices sent to you by email received when its email service shows transmission to your email address. You state that any email address you gave the Company for contacting you is a current and valid email address for receiving notice, and that your computer has hardware and software configured to send and receive email through the Internet and to print any email you receive.

## 21.8 Force Majeure

The Company is not responsible for any failure to perform if unforeseen circumstances or causes beyond its reasonable control delays or continues to delay its performance, including:

- (a) Acts of God, including fire, flood, earthquakes, hurricanes, tropical storms, or other natural disasters;
- (b) War, riot, arson, embargoes, acts of civil or military authority, or terrorism;
- (c) Fiber cuts;
- (d) Strikes, or shortages in transportation, facilities, fuel, energy, labor, or materials;
- (e) Failure of the telecommunications or information services infrastructure; and
- (f) Hacking, SPAM, or any failure of a computer, server, network, or software.

## 21.9 No Third-Party Beneficiaries

This agreement does not, and the parties do not intend it to, confer any rights or remedies on any person other than the parties to this agreement.

#### 21.10 Relationship of the Parties

This agreement does not, and the parties do not intend it to, create a partnership, joint venture, agency, franchise, or employment relationship between the parties and the parties expressly disclaim the existence of any of these relationships between them. Neither of the parties is the agent for the other, and neither party has the right to bind the other on any agreement with a third party.

#### 21.11 Successors and Assigns

This agreement inures to the benefit of, and are binding on, the parties and their respective successors and assigns. This section 21.11 does not address, directly or indirectly, whether a party may assign rights or delegate obligations under this agreement. Section 21.4 addresses these matters.

#### 21.12 Electronic Communications Not Private

The Company does not provide facilities for sending or receiving confidential electronic communications. You should consider all messages sent to the Company or from the Company as open communications readily accessible to the public. You should not use the Website to send or receive messages you only intend the sender and named recipients to read. Users or operators of the Website may read all messages you send to the Website regardless of whether they are intended recipients.

#### 21.13 Electronic Signatures

Any affirmation, assent, or agreement you send through the Website will bind you. You acknowledge that when you click on an "I agree," "I consent," or other similarly worded "button" or entry field with your finger, mouse, keystroke, or other device, your agreement or consent will be legally binding and enforceable and the legal equivalent of your handwritten signature.

#### 21.14 Consumer Rights Information—California Residents Only

This section 21.14 applies only to California residents. In compliance with section 1789 of the California Civil Code, please note the following:

Internet Key, Inc.  
1 Main Street  
Keyport, New Jersey 07735  
+1 (732) 888-4422

Users who want to gain access to the password-restricted area of the Website must register. The Company does not charge consumers for registering. You may contact the Company at [support@internetkey.com](mailto:support@internetkey.com) to resolve any disputes or to receive further information about the Website.

#### 21.15 Complaints—California Residents Only

You may contact in writing the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs at 1020 North Street, #501, Sacramento, California 95814, or by telephone at +1 (916) 445-1254.

#### 21.16 **Feedback**

The Company encourage you to provide feedback about the Website. But the Company will not treat as confidential any suggestion or idea provided by you, and nothing in this agreement will restrict its right to use, profit from, disclose, publish, or otherwise exploit any feedback, without payment to you.

#### 21.17 **Your Comments and Concerns**

You should direct all feedback, comments, requests for technical support, and other communications relating to the Website to [support@internetkey.com](mailto:support@internetkey.com).

#### 21.18 **Usages**

In this agreement, the following usages apply:

- (a) Actions permitted under this agreement may be taken at any time and on one or more occasions in the actor's sole discretion.
- (b) References to a statute will refer to the statute and any successor statute, and to all regulations promulgated under or implementing the statute or successor, as in effect at the relevant time.
- (c) References to numbered sections in this agreement also refer to all included sections. For example, references to section 6 also refer to 6.1, 6.1(a), etc.
- (d) References to a governmental or quasi-governmental agency, authority, or instrumentality will also refer to a regulatory body that succeeds to the functions of the agency, authority, or instrumentality.
- (e) "A or B" means "A or B or both." "A, B, or C" means "one or more of A, B, and C." The same construction applies to longer strings.
- (f) "Including" means "including, but not limited to."