

TERMS OF USE

Last updated on: November 5, 2008

Please carefully review these Terms of Use (“this Agreement”). The website www.howtomaintain.com (“the Website”) and the products and services offered thereon are owned, operated, and managed by Char&Land, LLC (collectively, “us,” “we,” or “Char&Land”). By using or accessing the Website, you are agreeing to this Agreement, whether or not you maintain an account on the Website. We may modify or update this Agreement from time to time without prior notice. We may also modify, add to, delete, and/or discontinue any or all parts of the Website without prior notice. Your continued use of the Website following any modification or update means you accept any changes made. We reserve the right to restrict access to any or all parts of the Website without notice or liability. If you do not agree to the Terms of Use set forth below, you may not access or otherwise use the Website.

Website Content

Any designs, text, blog entries, graphics, logos, button icons, photographs, images, video, audio, software, and other files or materials, and their selection and arrangement, created by and/or otherwise originating with Char&Land and accessed through the Website (“the Website Content”), and all associated patent, trademark, service mark, trade dress, trade secret, copyright, and other intellectual property rights, registered and unregistered, are the property of Char&Land or its licensors, and are protected by the laws of the United States and international laws. All rights not expressly granted herein are reserved for Char&Land or its licensors. We reserve the right to discontinue or alter any aspect of the Website and the Website Content without prior notice. Any and all uses of the Website Content, such as but not limited to reproduction, modification, distribution, performance, transmission, republication, and display, without express written consent from Char&Land, are strictly prohibited. Nothing contained on the Website should be construed as granting, either expressly, impliedly, by estoppel, or otherwise, any license or right to use the Website Content. Any additional rules governing the use of Website Content, software, and other items accessible on the Website may be included elsewhere within the Website, and such rules are incorporated into this Agreement by reference.

Third Party Content

Char&Land may display, use, and/or otherwise incorporate designs, text, graphics, logos, icons, products, services, photographs, images, video, audio, and other files, information, or materials on the Website that are not created by and/or otherwise originating with Char&Land (“Third Party Content”). Char&Land claims no title, ownership, or any other rights in such Third Party Content. Any and all patent, trademark, service mark, trade dress, trade secret, copyright, and other intellectual property rights associated with the Third Party Content appearing on the Website are the property of the third party with or in whom the Third Party Content originates. You are hereby put on notice that your use of the Third Party Content appearing on the Website, without express written consent from the owner of such content, may be prohibited and/or against the law. You should contact the owner of Third Party Content appearing on the Website before using such content in any way.

User Submissions

Any materials, ideas, inquiries, know how, feedbacks, suggestions, or other information sent to us by you or someone claiming to be you, through or in connection with the Website ("User Submissions") will be treated as non-confidential and non-proprietary subject to the Privacy Policy posted on the Website. By posting, transmitting, uploading, submitting, and/or otherwise sending ("Sending") User Submissions to us, you expressly agree that the full right, title, and ownership of such User Submissions immediately transfers to Char&Land. You also expressly agree that we may, and we reserve the right to, use, copy, modify, translate, publish, license, perform, distribute, display, make derivative works from, sell, assign, license, and reproduce such User Submissions as we see fit for any purpose, without limitation, including within or in connection with our products or services, anywhere in the world, without obligation for compensation in any form, and free of any rights including but not limited to moral rights, proprietary rights, or intellectual property rights in or to such User Submissions.

You shall not Send any User Submission to us including photographs, images, icons, videos, audio, or any other information or content which infringes or violates any third party rights, or which is unlawful, harmful, threatening, abusive, harassing, slanderous, libelous, vulgar, obscene, invasive of another's privacy, or hateful. By Sending a User Submission to us you automatically warrant that you have permission from all individuals associated with your User Submission to provide such a submission and to grant the rights provided herein. The copyright to photographs, images and videos of celebrities, cartoon characters, and comic images is usually owned by the creator of such works. You agree to indemnify us for all claims arising from or in connection with any claims to any rights in your User Submission or any damages arising therefrom.

You represent and warrant that your User Submission does not constitute or contain solicitations for commercial use, chain letters, mass mailings, or any other form of "spam." You shall not use a false email address, impersonate any person or entity, or otherwise mislead us as to the origin of your User Submission.

You shall not Send any User Submission to us that contains any computer software routine intended, designed, or having the capacity to: (i) permit access or use of the Website or Char&Land's systems by any person not authorized by Char&Land; or (ii) disable, damage, erase, disrupt or impair the normal operation of the Website or any other software or data on Char&Land's and its users' computer systems.

Any Personal Information collected through or in connection with your use of the Website shall only be used in accordance with the Privacy Policy posted on the Website. To the extent there is an inconsistency between this Agreement and the Privacy Policy, this Agreement shall govern.

Website Links

The Website may provide links to other websites. These other websites may not be owned or controlled by Char&Land, and Char&Land is not responsible in any way for the content appearing on such websites. Char&Land provides such links only as a convenience to users of the Website. The inclusion of any link to any such website or the use of Third Party Content on the Website does not imply endorsement by Char&Land, its affiliates, or

its licensors, of the Third Party Content or other content contained on such websites. Your linking to or from such websites is at your own risk. Char&Land is not responsible for examining or evaluating such websites, and we do not assume any responsibility or liability for the actions, content, products, or services of such websites. It is your responsibility to carefully review the terms and conditions and privacy policies of any such websites prior to your use thereof.

The Website Is Not A Source Of Medical Advice

The Website and Char&Land ARE NOT sources of medical advice, diagnosis, or treatment, and any Website Content should not be regarded as such. The Website Content, and any information, advertisements, videos, DVDs, and other products, or materials, advertised or sold on the Website, is for informational purposes only. The Website Content is not intended to be a substitute for professional medical advice, diagnosis, or treatment. You should always seek the advice of your physician or other qualified healthcare provider with any questions you may have regarding a medical condition. Never disregard professional medical advice or delay in seeking it because of something you have seen or heard on the Website.

User Accounts

You may create an account on the Website if you are over thirteen (13) years of age. Users under the age of thirteen (13) are prohibited from creating an account on the Website. If you do create an account, you may select a username and password upon completing the registration process and you may be required to provide us with your mailing address, your email address, and other Personal Information. You are solely responsible for maintaining the confidentiality of your username and password. You agree to immediately notify Char&Land at service@howtomaintain.com should you know, or have reasonable grounds to suspect that your username and password have been compromised. We shall not be responsible for your failure to abide by this paragraph. You agree not to use the account, email address, or password of any other user at any time. You are solely responsible for all activity by anyone using your account and/or password, regardless of whether you had or have knowledge of such use. We reserve the right to refuse service and/or terminate accounts without prior notice if these Terms and Conditions are violated or if we decide, in our sole discretion, that it would be in Char&Land's best interests to do so.

Consent to Receive Communications

By creating an account on the Website, you expressly consent to receive any agreements, notices, disclosures, advertisements, promotional offers, and/or other communications ("Communications") from us electronically, including but not limited to via email and via posting such Communications on the Website. You agree that any Communications we provide to you electronically fully satisfy any applicable legal or other requirements that such Communications be in writing.

Your consent to receive such Communications from us becomes effective once your account on the Website is activated and shall remain effective until termination of your account. To terminate your account, please contact us at service@howtomaintain.com. You may not withdraw your consent to receive such Communications while maintaining an account on the Website.

Your Obligations

You expressly agree to comply with these Terms and Conditions and any other warnings or instructions posted on the Website. You shall act always in accordance with the law, custom, and in good faith when visiting or using the Website. You may not make any change or alteration to the Website or impair, in any way, the integrity or operation of the Website. Without limiting the generality of any other provision of these Terms and Conditions, if you default negligently or willfully in any of the obligations set forth in these Terms and Conditions, you shall be liable for all the losses and damages that this may cause to Char&Land, our affiliates, partners, or licensors.

Termination

You agree that Char&Land may terminate your account on the Website and/or your use of the Website if it believes that you have violated this Agreement or for any other reason, at its sole discretion, and without notice to you. Various provisions of this Agreement, including but not limited to those entitled “Website Content,” “Third Party Content,” “User Submissions,” and “Indemnity” will survive termination of this Agreement.

Fees

You agree to pay all fees and charges incurred in connection with your use of the Website including, but not limited to, any orders or purchases. You also agree to pay all taxes (including sales taxes, use taxes, value-added taxes, or other taxes) and shipping fees associated with your purchases on, and/or other use of the Website. Fees charged by Char&Land in connection with your use of the Website may change at any time without advanced notice. All fees and charges due to Char&Land shall be paid by you through ProPay®, credit card, or money order. No cash or checks shall be accepted for payment of fees due to Char&Land. You must be eighteen (18) years of age or older to make purchases or orders on the Website. Once payment has been made to Char&Land, you waive the right to request or receive any refund for your payment, even in the event of overpayment. All sales are final and no returns of any purchased products will be accepted by Char&Land.

Indemnity

You expressly agree to indemnify and hold Char&Land, its officers, directors, employees, agents, licensors, and suppliers, harmless from and against any claims, actions or demands, and liabilities, due to or arising out of your use of the Website and/or your violation of this Agreement, and you shall pay all costs, expenses, settlements and damages finally awarded, including reasonable attorney’s fees.

Disclaimers

THE WEBSITE AND THE WEBSITE CONTENT ARE PROVIDED ON AN “AS IS” BASIS. USE OF THE WEBSITE AND ANY WEBSITE CONTENT IS AT YOUR OWN RISK. CHAR&LAND DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, MERCHANTABILITY, NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, AND FITNESS FOR A PARTICULAR PURPOSE.

CHAR&LAND MAKES NO GUARANTEES, ENDORSEMENTS, PROMISES, REPRESENTATIONS, OR WARRANTIES OF ANY KIND REGARDING THE FOLLOWING:

- 1) The accuracy, reliability, efficacy, currentness, completeness, or timeliness of the Website or Website Content including, but not limited to, text, graphics, blog entries, advice, information, videos, audio, links, goods or services offered for sale on, or communications provided on or through the Website.
- 2) The availability of the Website or any specific results from use of the Website, goods and services offered for sale on the Website, or Website Content, for any purpose.
- 3) Adherence to or compliance with any federal, state, local, or government regulations requiring information disclosure.
- 4) Adherence to or compliance with any federal, state, local, or government regulations regarding the Website or Website Content.

Limitation of Liability

IN NO EVENT WILL CHAR&LAND OR ANY OF ITS SUPPLIERS, LICENSORS, AFILIATES, PARTNERS, AGENTS, OR THIRD PARTIES MENTIONED ON THE WEBSITE BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY DELAY, FAILURE, INTERRUPTION OF SERVICE, LOSS OF USE, LOST DATA, CORRUPTION OF DATA, LOST PROFIT, LOST REVENUE, DIMINISHED GOODWILL, PERSONAL INJURY, WRONGFUL DEATH, FRAUDULENT, MISREPRESENTATION, OR ANY OTHER INDIRECT, INCIDENTAL, SPECIAL, PUNATIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, ARISING FROM OR RELATED TO THE WEBSITE, THE WEBSITE CONTENT, AND/OR YOUR USE OR INABILITY TO USE THE WEBSITE OR THE WEBSITE CONTENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT CHAR&LAND, OR ANY OF ITS SUPPLIERS, LICENSORS, AFILIATES, PARTNERS, AGENTS, OR THIRD PARTIES MENTIONED ON THE WEBSITE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT WILL CHAR&LAND OR ANY OF ITS SUPPLIERS, LICENSORS, AFILIATES, PARTNERS, AGENTS, OR THIRD PARTIES MENTIONED ON THE WEBSITE BE LIABLE TO YOU OR TO ANY THIRD PARTY FOR ANY DAMAGES OF THE TYPES DESCRIBED ABOVE RELATED TO THE RELIABILITY, EFFICACY, CURRENTNESS, COMPLETENESS, TIMELINESS, OR OPINIONS OF THIRD-PARTY WEBSITES TO WHICH LINKS ARE PROVIDED ON THE CHAR&LAND WEBSITE. YOU AGREE TO ACCESS SUCH THIRD-PARTY WEBSITES AT YOUR OWN RISK.

THE AGGREGATE LIABILITY OF CHAR&LAND, ITS SUPPLIERS, LICENSORS, AFILIATES, PARTNERS, AGENTS, OR THIRD PARTIES MENTIONED ON THE WEBSITE TO YOU FOR ALL CLAIMS SHALL NOT

EXCEED THE SUM OF THE FEES PAID BY YOU TO CHAR&LAND, DURING THE PREVIOUS 12 MONTH PERIOD. ANY CLAIMS ARISING IN CONNECTION WITH YOUR USE OF THE WEBSITE, WEBSITE CONTENT, OR THE PUBLIC AREAS MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE DATE OF THE EVENT GIVING RISE TO SUCH ACTION, AND SUCH CLAIMS MUST BE BROUGHT IN THE JURISDICTION DEFINED BY THIS AGREEMENT. YOU AGREE THAT ALL REMEDIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE AND ARE LIMITED TO THOSE EXPRESSLY PROVIDED HEREIN.

Waiver

No waiver of a breach of any term of this Agreement will be effective unless in writing and duly executed by the waiving party. No such waiver will constitute a waiver of any subsequent breach of the same or any other term of this Agreement. No failure on the part of a party to exercise, and no delay in exercising, any of its rights hereunder will operate as a waiver thereof, nor will any single or partial exercise by a party of any right preclude any other or future exercise thereof or the exercise of any other right. No course of dealing between the parties will be deemed effective to modify, amend or discharge any part of this Agreement or the rights or obligations of any party hereunder.

Entire Agreement

This Agreement, together with all its Schedules, contains the entire understanding of the parties with respect to the transactions contemplated and supersedes any prior agreements or understandings among the parties with respect to the subject matter hereof. This Agreement may only be amended by a written document signed by all parties. There are no representations, warranties, or obligations of any party not expressly contained herein. In the event of any conflict between the terms of this Agreement and any of its Schedules, the terms of this Agreement will control.

Governing Law and Dispute Resolution

This Agreement will be governed by and interpreted in accordance with the laws of the State of New York, excluding its conflicts of law principles. In the event that any legal proceedings are commenced with respect to any matter arising under this Agreement, the parties specifically consent and agree that the courts of the State of New York and/or the Federal Courts located in the State of New York will have exclusive jurisdiction over each of the parties and over the subject matter of any such proceedings, and that the venue of any such action will be in Erie County, New York and/or the U.S. District Court for the Western District of New York. Additionally, the party that loses any such proceeding will pay all costs and expenses incurred by the other party(s) in connection therewith, including all attorneys' and other professional fees and expenses.

Partial Invalidity

If any provision of this Agreement is held invalid or unenforceable by competent authority, that provision will be construed so as to be limited or reduced to be enforceable to the maximum extent compatible with the law as it shall then appear. The total invalidity or unenforceability of any particular provision of this Agreement will not affect its other

provisions and this Agreement will be construed in all respects as if the invalid or unenforceable provision were omitted.