

QuickServe - Service Contract

QuickServe

Attention New Customers - After signing up for a server, you must print this contract, sign it, and either fax to (412) 381-9997 or mail to:

pair Networks
Attn: QuickServe Department
2403 Sidney St, Suite 510
Pittsburgh, PA 15203

A signed contract and initial payment are required before server setup will begin.

Please write your Key number here:

aca3a55e2f

pair Networks is a Web Presence Provider. **QuickServe** is a service provided by **pair Networks** whereby dedicated Internet servers can be used with **pair Networks** services. The use of such servers is subject to compliance with the terms and conditions set forth herein.

1. PARTIES

The Agreement made as of Wednesday 2003 March 26, by and between **pair Networks**, with its principal place of business at 2403 Sidney St Suite 510, Pittsburgh, Pennsylvania 15203, USA, and Matthew Wickline (hereinafter "Customer") of colorfilter.wickline.org, for the use of a dedicated server from **pair Networks** and certain administration and servicing thereof.

2. SERVICES PROVIDED

pair Networks agrees to provide the use of a server to Customer, for the exclusive use of Customer, excepting normal system administration as required by **pair Networks** in order to maintain security and stability, at the price agreed upon before the initiation of service, for a term of no less than 90 days (3 months for billing purposes). **pair Networks** will administer and service said server in accordance with the terms contained herein. Published fees include initial setup and installation services as determined by **pair Networks**.

3. TERM

The term of this agreement shall begin on the date the order is completed and continue for a term of no less than 90 days. Thereafter the agreement shall be open-ended, subject to termination in conformity with Section 9 of this agreement.

4. ADMINISTRATIVE ACCESS

Administrative access or "root" access to the server is limited to **pair Networks** employees and its authorized agents. **pair Networks** reserves the right to require, at their discretion, software and/or hardware upgrades for the purposes of maintaining security and stability of the services provided. The cost of such upgrades shall be set by **pair Networks** and paid by the customer.

5. NETWORK DATA TRANSFER CHARGES

There shall be no charge for monthly aggregate or daily average network transfer within the allowance of

the server package purchased, depending on the terms agreed upon at purchase, as measured during any calendar month. Monthly aggregate or daily average network traffic in excess of the pre-arranged allowance shall incur an additional monthly fee as set by **pair Networks**. Payment of this fee will be required in order to maintain service. Network traffic shall be measured by **pair Networks** and may include all forms of traffic to and from the server, at the sole discretion of **pair Networks**. All fees shall be set and adjusted by **pair Networks** from time to time and posted at the **QuickServe** web site at <http://www.quickserve.com/>.

6. HARDWARE AND SOFTWARE CONFIGURATIONS

All dedicated servers must use hardware and software configurations that conform with **pair Networks** requirements. Use of any particular hardware or software configuration may be declined at the sole discretion of **pair Networks**.

7. USER CONDUCT

pair Networks services and servers may only be used for lawful purposes. Any use which violates any local, state, federal, or international laws which may apply to **pair Networks**, Customer's local jurisdiction, or any jurisdiction that Customer or Customer's site may be subject to is strictly prohibited.

While using a dedicated server from **pair Networks**, Customer may not:

- A. Restrict or inhibit any other user from using and enjoying the Internet;
- B. Post or transmit any unlawful, threatening, abusive, libelous, defamatory, obscene, offensive, indecent, pornographic, profane, or otherwise objectionable information of any kind, including without limitation any transmissions constituting or encouraging conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any local, state, federal or international law, including without limitation the U.S. export control laws and regulations, and laws protecting intellectual property including copyright, trademark, trade secret, misappropriation and anti-dilution laws;
- C. Post, publish, transmit, reproduce or distribute any information or software which contains a virus or other harmful component;
- D. Post, publish, transmit, reproduce, distribute or in any way exploit any information, software, or other material obtained through the service for commercial purposes (other than as expressly permitted by the provider of such information, software, or other material);

8. INDEMNIFICATION

Customer agrees to indemnify, defend, and hold harmless **pair Networks** from any and all liability, penalties, losses, damages, costs, expenses, attorneys' fees, causes of action or claims caused by or resulting indirectly from Customer's use of the service or servers which damages Customer, **pair Networks**, or any other party or parties without limitation or exception. This indemnification and hold harmless agreement extends to all issues associated with Customer's service or servers, including but not limited to domain name selection and Web site content.

9. TERMINATION

Either party can terminate this contract for any reason upon 90 days prior written notice of intent to terminate to the other party. **pair Networks** reserves the right to terminate this contract without notice at the sole discretion of **pair Networks** for the violation of any terms and conditions of this contract. **pair Networks** may deny Customer access to a server without notice if Customer engages in any conduct or activities that **pair Networks** in its sole discretion believes to be in violation of any of the terms and conditions of this agreement. **pair Networks** shall have no responsibility to notify any third-party providers of services, merchandise, or information, nor any responsibility for any consequences resulting from such discontinuance or lack of notification. Customer agrees that **pair Networks** has the right to monitor the servers electronically from time to time and to disclose any information as necessary under the law, or to protect itself from claims by a third party or parties. **pair Networks** reserves the right to remove or remove access to any information or materials, in whole or in part, that, in its sole discretion, are unacceptable, offensive, or in violation of this agreement.

10. RETURN OF SERVER

Upon termination of this contract, all servers shall remain the property of **pair Networks** and are not subject to customer demands.

11. NO WARRANTIES

pair Networks makes no warranties or representations of any kind for the services being offered. The service is provided on an "as is" and "as available" basis without warranties of any kind, either express or implied, including but not limited to warranties of title, noninfringement, or implied warranties of merchantability or fitness for a particular purpose. No advice or information given by **pair Networks** or its agents or employees shall create a warranty. **pair Networks** provides no warranty that the service will be uninterrupted or error free or that any information, software or other material accessible on the service is free from viruses or other harmful components. Under no circumstances shall **pair Networks** be liable for any direct, indirect, special, punitive, or consequential damages that result in any way from Customer's use of or inability to use the service, or for third parties' use of the service to access Customer's Web content, or to access the Internet or any part thereof, or Customer's or any third parties' reliance on or use of information, services, or merchandise provided on or through the service, or that result from mistakes, omissions, interruptions, deletion of files, errors, defects, delays in operation or transmission, or any failure of performance. If Customer is dissatisfied with **pair Networks's** service or any of its terms, conditions, rules, policies, guidelines, or practices, Customer's sole and exclusive remedy is to discontinue using the service.

Customer understands that by placing information on a dedicated server from **pair Networks** that such information becomes available to all Internet users and that **pair Networks** does not limit or restrict access to such information, nor protect any such information from copyright infringement or other wrongful activity. Customer assumes full responsibility and risk for their use of the dedicated server. It is the Customer's sole responsibility to evaluate the accuracy, completeness and usefulness of all opinions, advice, services, and other information, and the quality and merchantability of all merchandise, provided through **pair Networks** or on the Internet generally.

12. NO RESALE

The server shall be made available to only one individual, organization, or business as named herein. The Customer may not include material, sublease, share, or resell space on the server with or to any other individual, organization, or business, without the express prior written approval of **pair Networks**. One account on the server will be provided to the Customer for their use in publishing Web site(s), as well as related services. Access to the server may not be shared with any third-party.

13. ECPA NOTICE

pair Networks reserves the right to monitor any and all communications through or with our facilities. Customer agrees that **pair Networks** is not considered a "secure communications medium" for the purposes of the ECPA and that no expectation of privacy is afforded.

14. IDENTIFICATION INFORMATION

Customer agrees that as the person legally responsible for use of this server and services, they are at least 18 years of age. Customer agrees to supply **pair Networks** with a current and truthful full name, postal address, and telephone number for their records, and has a continued obligation to keep this information current.

15. NO INTERFERENCE WITH OPERATION OF SYSTEM

Customer agrees not to maliciously or intentionally interfere with the proper operation of the server and network, including but not limited to defeating identification procedures, obtaining access beyond that which Customer is authorized for, and impairing the availability, reliability, or quality of service for other customers. Customer further agrees not to interfere with the proper operation of other systems reachable through the Internet, including any attempt at unauthorized access. Customer agrees to follow the

Acceptable Use Policy of any network or service to which Customer connects.

Customer agrees to adhere to system policies as published online by **pair Networks**, including restrictions on services available, restrictions on certain features, and all other policies designed to protect and enhance the quality and reliability of service at **pair Networks**. Customer agrees to abide by any and all future policy decisions by **pair Networks**.

16. SECURITY

Customer agrees that the security of the server and all services is solely Customer's responsibility. Customer further agrees that if the security of Customer's server has been compromised in any way, Customer will notify **pair Networks** immediately in writing as set forth in Section 23 herein. Customer shall be held fully responsible for any misuse or compromise of Customer's server for which **pair Networks** is not properly notified. Customer agrees that if any security violations are believed to have occurred in association with Customer's server, **pair Networks** has the right to suspend access to the server pending an investigation and resolution. Customer also agrees that **pair Networks** has the right to cooperate in any government or legal investigation regarding any aspect of our services, including any servers used by Customer. Any use of **pair Networks's** system to engage in software piracy or other violations of law will result in service suspension and be immediately reported to the appropriate authorities.

17. BACKUP OF DATA

Customers' use of the service and server is at Customer's sole risk. **pair Networks** is not responsible for files and data residing on Customer's server. Customer agrees to take full responsibility for files and data transferred and to maintain all appropriate backup of files and data stored on server. The backup service as provided by **pair Networks** is intended only to assist in recovery from a system failure, but its suitability for that purpose is not guaranteed.

18. TRANSMITTAL OF MATERIALS

Customer agrees not to transmit unsolicited or prohibited advertising or other harassing or illegal materials through electronic mail, Usenet postings, or other Internet media. The use of **pair Networks** or any other service with reference to services obtained through **pair Networks**, for unsolicited mass mailings, postings, or other activities considered an annoyance to others, commonly referred to as "spamming", is strictly prohibited and may cause Customer's services to be terminated immediately and without warning, and Customer will be held fully responsible for any damages to Customer, **pair Networks**, or any other party or parties resulting from any such conduct.

19. PAYMENT

Customer agrees to supply appropriate payment for the services received from **pair Networks**, in advance of the time period during which such services and use of server are provided. Customer agrees that all setup and installation fees are non-refundable once setup is completed. Customer agrees to all fee schedules as determined by **pair Networks**, included but not limited to fees for upgrades and downgrades, or charges for excessive data transfer as indicated in Section 5 above. **pair Networks** agrees that, once the initial 90 days have been paid, pro-rated refunds for prepaid but unused time periods beyond 90 days will be provided upon request, in the event of service termination, except as set forth in Section 18 above, at **pair Networks's** sole discretion. If at any time Customer breaches any part of this contract, Customer will be responsible for and will pay any and all of **pair Networks's** reasonable collections, attorney and court fees and costs incurred by **pair Networks** in enforcing this agreement.

20. PRIOR AGREEMENTS

This agreement supersedes any written, electronic, or oral communication Customer may have had with **pair Networks** or any agent or representative thereof, and constitutes the complete and total agreement between the parties.

21. SEVERABILITY

If any provision of this agreement is determined to be invalid or unenforceable, all other provisions shall remain in full force and effect and said provision shall be reformed only to the extent necessary to make it enforceable.

22. JURISDICTION

This agreement shall be governed by the laws of the State of Pennsylvania. The Customer consents and agrees to the exclusive subject matter and personal jurisdiction of the Court of Common Pleas of Allegheny County, Pennsylvania and the United States District Court for the Western District of Pennsylvania for any and all disputes arising from this Agreement or performance of the duties hereunder. Customer further consents to service of legal process by e-mail (or at the discretion of **pair Networks** ordinary mail postage prepaid) to the last known e-mail or street address provided by Customer. It shall be Customer's duty to notify **pair Networks** promptly of any change in e-mail or street address.

23. NOTICE

Any notice or other communication required herein, shall be in writing and shall be deemed to have been given only when sent by registered or certified mail, return receipt request, addressed to the parties at the name and address indicated below their signatures herein, as amended by updated information as required by Section 14 herein.

24. ACKNOWLEDGEMENT

By continuing to maintain any services with **pair Networks**, Customer is stating and acknowledging that Customer has read the aforementioned terms and conditions and that Customer understands such terms and conditions and agrees to be bound by them.

IN WITNESS WHEREOF, the parties have hereunder set their hands and seals as of the date first written.


DATED: Wednesday 2003 March 26

pair Networks

By: _____
Name and Title:

pair Networks
Attn: QuickServe Department
2403 Sidney St, Suite 510
Pittsburgh, Pennsylvania 15203

Customer

By: 
Name and Title:

Matthew S. Wickline,
geek
Address:
5295 Waterman #A-10
Saint Louis, MO 63108