

KCWM – Terms of Use

September, 2019

This Website is owned and operated by Hondo Communications, Inc. (“KCWM”, “we”, “us”, “our”). We have adopted this Terms of Use Agreement (“Agreement”) to the extent applicable.

This Agreement is a binding legal contract between you and KCWM and governs your use of the Website and any content made available from or through the Website KCWM.NET including KCWM1460.NET, KCWM1460.COM and/or any sub-domains thereof. Please read this Agreement, as well as our Privacy Policy carefully. By using our Website, application, mobile application, and/or any services offered through our Website, application, and/or mobile application (collectively, the “Service”), you accept the terms of this Agreement. If at any time you determine that you do not accept all the terms and conditions of this Agreement and the Privacy Policy, you must immediately discontinue use of this Service. The Service is provided for your personal non-commercial use only and subject to your compliance with this Agreement.

YOU MAY NOT USE THIS SERVICE FOR ANY PURPOSE THAT IS UNLAWFUL OR PROHIBITED BY THIS AGREEMENT, THE PRIVACY POLICY, AND/OR ANY APPLICABLE ADDITIONAL TERMS (SUCH AS CONTEST RULES). YOUR ACCESS TO THIS SERVICE MAY BE TERMINATED IMMEDIATELY AT KCWM’S SOLE DISCRETION, WITH OR WITHOUT NOTICE, IF YOU FAIL TO COMPLY WITH ANY PROVISION OF THIS AGREEMENT AND/OR ADDITIONAL TERMS, OR FOR ANY OTHER REASON, OR FOR NO REASON.

Some parts of the Service may contain adult content intended for people who are at least 18 years old. By viewing this adult content, you are representing that you are at least 18 years old and that the content is acceptable to you. Filtering software is commercially available that can be used to exclude content that is not acceptable to you. This software may prevent the display of all or portions of the Service content.

Changes to this Agreement and/or the Privacy Policy

KCWM reserves the right, in its sole discretion, to modify, alter, or otherwise change this Agreement and/or the Privacy Policy at any time. If we make any substantial changes to this Agreement and/or the Privacy Policy, we may notify you by posting a prominent announcement on the Website. However, we encourage you to check this Agreement and the Privacy Policy often for updates. Your continued use of the Service after the date of any changes to the Agreement and/or the Privacy Policy will constitute your acceptance and agreement to be bound by those changes without limitation, qualification or change. If at any time you determine that you do not accept these changes, you must immediately discontinue use of this Service.

Privacy, Children’s Privacy, and Protection of Personal Information

KCWM has developed a Privacy Policy in order to inform you of its practices with respect to the collection, use, and disclosure of personal information.

We do not knowingly collect, use or disclose the personal information of any person under the age of 16. If you believe that we have inadvertently collected personal information from a child, please contact us at contact@kcwm.net, and we will endeavor to destroy such personal information immediately.

Consistent with the Privacy Policy, KCWM reserves the right to disclose personal information as required or authorized by applicable law.

Accounts, Security, and Passwords

If the Service requires you to open an account, you must complete the specified registration process by providing us with current, complete and accurate information as requested by the applicable online registration form. The completeness and accuracy of your registration data is your responsibility, and any loss caused by your failure to ensure the completeness and accuracy of this information is your responsibility. After you have fully completed the registration form, you may be asked to choose a password and a user name. It is entirely your responsibility to maintain the confidentiality of your password and account and any loss caused by your failure to do so is your responsibility. Additionally, you are entirely responsible for any and all activities that occur under your account. You agree to notify KCWM immediately of any unauthorized use of your account. KCWM is not 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.

Use of Intellectual Property

The Service, and all of its contents, including but not limited to articles, other text, photographs, images, illustrations, graphics, video material, audio material, including musical compositions and sound recordings, software, KCWM logos, titles, characters, names, graphics and button icons (collectively “Intellectual Property”), are protected by copyright, trademark and other laws of the United States, as well as international conventions and the laws of other countries. The Intellectual Property is owned or controlled by KCWM or by other parties that have provided rights thereto to KCWM.

Except for personal, non-commercial purposes, you may not, and you hereby agree that you will not, reproduce, download, license, publish, enter into a database, display, modify, create derivative works from, transmit, post, distribute or perform publicly by any means, method, or process now known or later developed, decompile, reverse engineer, disassemble, use on another computer-related environment, transfer or sell any Intellectual Property, information, software or products obtained from or through this Service, in whole or in part, without the express written permission of KCWM.

Other trademarks, service marks, product names and company names or logos appearing on this Service that are not owned by KCWM may not be used without express permission from their owners.

We welcome links to our Service. You are free to establish a hypertext link to this Service so long as the link does not state or imply any sponsorship of your site, service, application, or mobile application by us.

Additionally, unless otherwise expressly permitted, you may not frame, or in-line link, any of the content of this Service, or incorporate into another website, application, mobile application, or other service any of our intellectual property.

Procedure for Making Claims of Copyright Infringement

KCWM respects the Intellectual Property rights of third parties, and complies with the terms of the Digital Millennium Copyright Act (“DMCA”) regarding such rights. By submitting any material to this Service, you are granting permission to have that material posted on this Service, and you are representing that you are the rightful owner of the submitted material and that no one else may claim rights to the material. KCWM reserves the right to remove access to infringing material. Such actions do not affect or modify any other rights KCWM may have under law or contract.

If you are an owner of intellectual property who believes your intellectual property has been improperly posted or distributed via this Website or Service, please notify us by sending a notice by U.S. Mail to KCWM, P.O. Box 447, Hondo, Texas 78861. Your notice must include the following information: (1) a physical or electronic signature of a person authorized to act on behalf of the owner of the copyrighted work allegedly infringed; (2) a description of the copyrighted work or works that allegedly have been infringed; (3) a description of where on the Service the allegedly infringing material appears that will allow us to locate the material; (4) a statement by you that you have a good faith belief that the allegedly infringing use has not been authorized by the copyright owner, its agent, or the law; and (5) a statement by you that the information in your notice is accurate, and under penalty of perjury, that you are authorized to act on behalf of the owner of the copyrighted work that has allegedly been infringed.

User Content

The Service may contain features that allow users to post, upload, transmit and/or otherwise submit (collectively, “post”) certain content and materials, including, without limitation, text, .jpeg and other image files (both moving and still), links, sound recordings, comments, recommendations (“User Content”). By posting User Content, you acknowledge that (a) such User Content may be routed through KCWM’s servers, third-party servers, and the Internet; (b) User Content may be viewed by KCWM personnel and the general public; and (c) the Service is public, not a private, means of communication.

We may, in our absolute discretion and without notice to you, screen, refuse to post, remove, or edit User Content, but we are not obligated to do so. If we have questions regarding User Content, we have

the right, but not the duty, to contact you for further information, including, for example, to seek verification that you hold the copyright in or are otherwise authorized to post the User Content.

You retain any copyright and other rights that you might hold in any User Content that you post to the Service. However, by posting User Content, you hereby grant KCWM, its corporate parent(s), subsidiaries, and/or affiliate(s), and their respective licensees, a perpetual, non-exclusive, worldwide, transferrable license to use, copy, sublicense, modify, transmit, publicly perform, display, create derivative works of, host, index, cache, tag, encode and/or adopt User Content in any and all media formats or channels, whether now known or hereafter devised, including, without limitation, the Service and Affiliate station broadcasts, without payment to you and without further consent from or notice to you. By posting User Content, you also grant KCWM the right to contact you in connection with the User Content and to use your name, city, state, and other information that you may provide in connection with the User Content.

You also agree to abide by these Terms of Use in connection with User Content that you post through the Service, and, with respect to such User Content, you further represent and warrant:

- (a) that you are at least 18 years of age;
- (b) that you have obtained all necessary clearance, releases, licenses, and rights to post the User Content;
- (c) that no encumbrances or other limitations or restrictions on the User Content exist which would prevent its use by KCWM; and
- (d) that the User Content and its use by KCWM, its corporate parent(s), subsidiaries, and affiliate(s) does not and will not (i) defame any person or entity; (ii) violate or infringe the copyright, trademark, privacy, reputation, patent, trade secret, creative or other rights of any person or entity; and/or (iii) violate these Terms of Use.

By posting User Content, you further agree to indemnify and hold harmless KCWM, its corporate parent(s), subsidiaries, affiliate(s), and their respective officers, directors, and employees from any and all claims, liabilities, costs, or expenses, including, without limitation, reasonable attorney and other professional fees, arising from (a) your breach of any of the representations and warranties contained in this "User Content" section of these Terms of Use; (b) the User Content you post through the Service; (c) KCWM's use, publication, distribution, or broadcast of User Content that you post; or (d) your use of the Service.

Disclaimer of Warranties

YOUR USE OF, AND RELIANCE ON, ANY ADVICE OR INFORMATION OBTAINED FROM OR THROUGH THE SERVICE IS AT YOUR OWN RISK. ALL CONTENT, INCLUDING SOFTWARE, PRODUCTS, SERVICES, INFORMATION, TEXT AND RELATED GRAPHICS CONTAINED WITHIN OR AVAILABLE THROUGH THE SERVICE ARE PROVIDED TO YOU ON AN "AS IS," "AS AVAILABLE" BASIS. TO THE FULLEST EXTENT PERMISSIBLE PURSUANT TO APPLICABLE LAW, KCWM DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE

IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, WORKMANLIKE EFFORT, INFORMATIONAL CONTENT, TITLE, OR NON-INFRINGEMENT OF THE RIGHTS OF THIRD PARTIES. KCWM DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS THAT THIS SERVICE WILL OPERATE ERROR-FREE OR UNINTERRUPTED, THAT DEFECTS WILL BE CORRECTED, OR THAT THIS SERVICE AND/OR SERVER WILL BE FREE OF VIRUSES AND/OR OTHER HARMFUL COMPONENTS. KCWM DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING SUITABILITY, AVAILABILITY, ACCURACY, RELIABILITY, COMPLETENESS, OR TIMELINESS OF ANY MATERIAL OF ANY KIND (INCLUDING WITHOUT LIMITATION SOFTWARE, PRODUCTS, SERVICES, INFORMATION, TEXT AND RELATED GRAPHICS) CONTAINED WITHIN THIS SERVICE FOR ANY PURPOSE.

Limitations on Liability

In no event shall KCWM, its subsidiaries, affiliates, licensees, parent companies, distributors, suppliers, licensors, agents or others involved in creating, sponsoring, promoting, or otherwise making available the Service and its contents, be liable to any person or entity whatsoever for any direct, indirect, incidental, special, compensatory, consequential, or punitive damages or any damages whatsoever, including but not limited to: (a) loss of goodwill, profits, business interruption, data or other intangible losses; (b) your inability to use, unauthorized use of, performance or non-performance of the Service; (c) unauthorized access to or tampering with your personal information or transmissions; (d) the provision or failure to provide any service; (e) errors or inaccuracies contained in the Service or any information, software, products, services, and related graphics obtained through the Service; (f) any transactions entered into through the Service; (g) any property damage including damage to your computer or computer system caused by viruses or other harmful components, during or on account of access to or use of the Service or any site to which it provides hyperlinks; or (h) damages otherwise arising out of the use of the Service. The limitations of liability shall apply regardless of the form of action, whether based on contract, tort, negligence, strict liability or otherwise, even if KCWM has been advised of the possibility of damages.

Links

This Service may contain links to websites operated by third parties. KCWM does not monitor or control the linked sites and makes no representations regarding, and is not liable or responsible for the accuracy, completeness, timeliness, reliability or availability of any of the content uploaded, displayed or distributed, or products, or services available at these sites. If you choose to access any third-party site, you do so at your own risk. The presence of a link to a third-party site does not constitute or imply KCWM's endorsement, sponsorship, or recommendation of the third party or of the content, products or services contained on, or available through, the site.

Internet Radio

The Service may provide you access, for your personal use, to a live stream of KCWM radio signal (the "Internet Radio Service"). You may not rebroadcast the Internet Radio Service in any way. You may not

make any recordings of, or otherwise duplicate, content or information provided by the Internet Radio Service through any means. In addition, you may not re-transmit or otherwise distribute the content or information provided by the Internet Radio Service in any way, including by online streaming such content or making such content available for download. You may not re-skin, re-package, decompile, reverse engineer, or disassemble the Internet Radio Service, or construct a media player or interface that accesses the Internet Radio Service, including by weblink that bypasses the home page of the Service. In addition, your use of any products or services that access the Internet Radio Service and which are provided by third parties not authorized by us constitutes a violation of this Agreement, even if you did not create such product or services and/or do not understand how they were created.

Third Party Merchants

The Service may permit you to order and receive products, information and services from businesses that are not owned or operated by KCWM, our corporate parent(s) and/or our Affiliates. The purchase, payment, warranty, guarantee, delivery, maintenance and all other matters concerning the merchandise, services or information, opinion or advice ordered or received from such businesses are solely between you and such businesses. KCWM does not endorse, warrant or guarantee such products, information or services and is not liable for the accuracy, completeness or usefulness of such information, opinion or advice or the quality or availability of such products or services. KCWM will not be a party to or in any way be responsible for monitoring any transaction between you and third-party providers of products, services or information, or for ensuring the confidentiality of your credit card information. Any separate charges or obligations you incur in your dealings with these third parties are your responsibility and are not part of the fee, if any, charged for the KCWM Service.

Modification/Termination by KCWM

KCWM respects the intellectual property rights of third parties. Accordingly, you may not store any material on the Service or use KCWM's systems or servers in any manner that constitutes an infringement of third party intellectual property rights, including under U.S. copyright law. In accordance with the Digital Millennium Copyright Act ("DMCA") and other applicable laws, it is the policy of KCWM to suspend or terminate, in appropriate circumstances, the internet service provided to any subscriber or account holder who is deemed to infringe third party intellectual property rights, including repeat infringers of copyrights. In addition, KCWM expressly reserves the right to suspend, terminate or take other interim action regarding the internet service of any user if KCWM, in its sole discretion, believes that circumstances relating to an infringement of third party intellectual property rights warrant such action. These policies are in addition to and do not affect or modify any other rights KCWM may have under law or contract.

In addition, KCWM reserves the right, in its sole discretion, to modify, suspend, or terminate this Service and/or any portion thereof, and/or your account, password, or use of any KCWM internet service, or any portion thereof, at any time for any reason, or no reason, with or without notice to you.

Any termination of your account removes your authorization to use the Service. In the event of termination, you will still be bound by your obligations under this Agreement, including the warranties made by you, and by the disclaimers and limitations of liability. Additionally, KCWM shall not be liable to you or any third party for any termination of your access to the Service.

Indemnification

You agree to indemnify, defend, and hold harmless KCWM, its subsidiaries, agents, parent companies, distributors, licensees and affiliates, and their officers, directors and employees from and against any and all claims, actions, demands, liabilities, costs and expenses, including, without limitation, reasonable attorneys' fees, resulting from your breach of any provision of this Agreement or any warranty you provide herein, or otherwise arising in any way out of your use of this Service and any related KCWM internet service and/or software. KCWM reserves the right to take exclusive control and defense of any such claim otherwise subject to indemnification by you, in which event you will cooperate fully with KCWM in asserting any available defenses.

International Use/U.S. Export Controls

Accessing the materials on this Service by certain persons in certain countries may not be lawful, and KCWM makes no representation that materials on this Website are appropriate or available for use in locations outside the United States. If you choose to access this Website from outside the United States, you do so at your own risk and initiative, and are responsible for compliance with any applicable local laws.

The United States controls the export of any software downloadable from this Service. No software or any other materials associated with this Service may be downloaded or otherwise exported or re-exported to countries or persons prohibited under export control laws, including but not limited to countries against which the United States has embargoed goods, or to anyone on the U.S. Treasury Department list of Specially Designated Nationals or the U.S. Commerce Department's Table of Deny Orders. You are responsible for compliance with the laws of your local jurisdiction regarding the import, export, or re-export of any such materials. By using and/or downloading any such materials from the Service, you represent and warrant that you are not located in, under the control of, or a national or resident of any such country to which such import, export, or re-export is prohibited or are not a person or entity to which such export is prohibited.

General Information

This Agreement and the Privacy Policy shall be governed by, construed and enforced in accordance with the laws of the State of Texas, as it is applied to agreements entered into and to be performed entirely within such state, without regard to conflict of law principles. You agree that any cause of action you or KCWM brings to enforce this Agreement and/or the Privacy Policy, or in connection with any matters related to this Service and/or a KCWM internet service, shall be brought only in either the state or

Federal courts located in Medina County, Texas. You agree to submit to the personal jurisdiction of the courts of the State of Texas for any cause of action arising out of this Agreement and/or the Privacy Policy, or in connection with any matters related to this Service and/or a KCWM internet service. You agree to file any cause of action with respect to this Agreement and/or the Privacy Policy, or in connection with any matters related to this Service and/or a KCWM internet service, within one year after the cause of action arises. You agree that a cause of action filed after this date is barred.

If any provision of this Agreement and/or the Privacy Policy, or the application thereof to any person or circumstances, is held invalid or for any reason unenforceable including, but not limited to, the warranty disclaimers and liability limitations, then such provision shall be deemed superseded by a valid, enforceable provision that matches, as closely as possible, the original provision, and the other provisions of this Agreement and/or the Privacy Policy shall remain in full force and effect. The failure of either party to insist upon strict performance of any provision of this Agreement and/or the Privacy Policy shall not be construed as a waiver of any provision or right. Unless expressly provided otherwise, this Agreement and the Privacy Policy constitute the entire agreement between you and KCWM with respect to the use of the Service and shall not be modified except in writing, signed by an authorized representative of KCWM.

Class Action Waiver

You agree that all claims or disputes between us will be arbitrated individually, and that there will be no class, representative, or consolidated actions in arbitration. If you or we bring a claim in small claims court, the class action waiver will apply, and neither of the parties can bring a claim on a class or representative basis. Furthermore, neither you nor we may participate in a class or representative action as a class member if the class action asserts claims that would fall within the scope of this arbitration agreement if they were directly asserted by you or us. Notwithstanding the foregoing, this arbitration agreement shall not prohibit you or us from participating in any judgment or settlement in any litigation brought by a federal, state, or local government on behalf of you or us, excluding litigation brought by any party in its capacity as a private attorney general. We both agree that this class action waiver is an essential part of our arbitration agreement and that if this class action waiver is found to be unenforceable by any court or arbitrator then the entire arbitration agreement set forth in this section will not apply to any claim or dispute between you and us. This class action waiver may not be severed from our arbitration agreement.

Informal Dispute Resolution

You and the KCWM Affiliate that operates the Service agree to try to resolve disputes informally before resorting to arbitration. If the dispute cannot be resolved by telephone, you agree to notify us of the dispute by sending a written description of your claim to contact@kcwm.net so that we can attempt to resolve it with you. If we do not satisfactorily resolve your claim within 30 calendar days of receiving notice of it, then you may pursue the claim in arbitration. Neither you nor we may initiate arbitration

without first providing the other notice of the claim and following the informal dispute resolution procedure provided in this paragraph.

Contact

If you have questions concerning this Agreement and/or the Service, you may send them by e-mail to contact@kcwm.net. You must send any official correspondence via postal mail to:

KCWM

P.O. Box 447

Hondo, Texas 78861