



# Rivers Edge Designs Hosting Terms and Conditions

Carefully read the following terms and conditions of this agreement. By accessing and using the Rivers Edge Designs Managed Hosting and associated software of Rivers Edge Designs, ("Rivers Edge Designs"), you ("Customer") indicate the acceptance of the following terms and conditions and you agree to be bound by them. IF YOU DO NOT AGREE TO BE BOUND BY THIS AGREEMENT, DO NOT ACCESS OR USE THE RIVERS EDGE DESIGNS MANAGED HOSTING or associated software.

This agreement constitutes the complete and exclusive statement of the agreement between you and Rivers Edge Designs with respect to the Rivers Edge Designs Managed Hosting and associated software and SUPERSEDES ANY PROPOSAL OR PRIOR AGREEMENT, oral or written, and any other communications relating to the subject matter of this agreement.

Now, therefore, in consideration of the mutual covenants set forth herein, Rivers Edge Designs and Customer agree as follows:

## **1. Order Acceptance, Payment.**

- a. All orders are subject to acceptance by Rivers Edge Designs. An order will be deemed accepted by Rivers Edge Designs when Rivers Edge Designs responds by email to the order with an invoice to Customer.
- b. Customer shall use a valid major credit card at a secure payment website or other payment method as agreed upon by both parties for paying in advance the applicable set-up fees and monthly fees as agreed upon by Customer and Rivers Edge Designs and as quoted and invoiced. Such fees and charges shall include, without limitation, the fees for connectivity to Rivers Edge Designs Hosting servers, operator group design and maintenance services, and charges by any and all third parties whose materials are included as part of the service. Rivers Edge Designs reserves the right to change the amount of, or basis for determining, any fees or charges and institute new fees and charges upon prior notice to Customer. Rivers Edge Designs shall honor originally quoted pricing for fees paid in advance. Seven (7) days prior to payment due date, Rivers Edge Designs shall email to Customer an invoice containing payment due date, amount due and information on how to make the payment. For online payment methods, the invoice specifies how to deposit the funds electronically, and Customer shall access the referenced secure site with valid major credit card information, unless otherwise agreed upon, to make the payment. All fees must be paid in advance, in US Dollars (USD) only. Unless otherwise specified and agreed upon, Customer must pay, in advance, for each billing period of service. If payment by Customer's credit card or other source of funds as agreed upon is



denied, or Customer's charge is returned to Rivers Edge Designs for any reason, including charge back, or Customer otherwise fails to make any payments owing to Rivers Edge Designs by payment due date, Rivers Edge Designs shall, at Rivers Edge Designs discretion, suspend or terminate access to the Rivers Edge Designs Managed Hostings and/or terminate this Agreement, anytime after payment due date when payment hasn't been received, without prior notice to Customer. Customer's right to use the Rivers Edge Designs Managed Hosting is subject to any limits established by Rivers Edge Designs or by the issuer of Customer's credit card or alternative source of funds if applicable. Customer shall be responsible for any and all taxes related to this Agreement.

2. **Rivers Edge Designs Managed Hosting.** During the term of this Agreement, Rivers Edge Designs shall provide the following software and support services to Customer:
  - a. Upon request, and following the limits of the plan, can request additional emails, domains or SSL certificates.
  - b. Routine activities including provisioning and maintenance.
  - c. Free support by email.
3. **Refunds.** All fees are nonrefundable.
4. **Third Party Providers.** Access to and use of Rivers Edge Designs Managed Hosting requires Internet access service which is not included in the services provided by Rivers Edge Designs. Customer acknowledges that in order to access Rivers Edge Designs Managed Hosting, Customer may have to agree to and execute agreements with third party providers who may charge Customer fees and charges which are in addition to the fees and charges imposed by Rivers Edge Designs. This Agreement does not in any way relate to or modify the terms of such agreements.
5. **Rules and Regulations.** By using this service, Customer agrees to and will abide by the following rules and regulations:
  - a. The service cannot be used for distributing pornography or other objectionable material, or for committing any criminal offenses.
  - b. Malicious intent or action of any kind against Rivers Edge Designs servers, software, or other Rivers Edge Designs customers subscribing to Rivers Edge Designs Managed Hosting is strictly prohibited. Attempting to guess usernames and passwords of other service or trial operators and masquerade as their identity constitutes malicious intent.
6. **License Grant.** During the term of this Agreement, Rivers Edge Designs grants to Customer a non-exclusive, personal, non-transferable license to access and use the Rivers Edge Designs Managed Hosting solely on and as part of Rivers Edge Designs's World Wide Web site and servers. Rivers Edge Designs may modify the Rivers Edge Designs Managed Hosting at any time for any reason and may provide modified versions of the Rivers Edge Designs Managed Hosting agreement to Customer without any additional charges for such changes.
7. **Intellectual Property Rights.** Customer acknowledges and agrees that the Rivers Edge Designs Managed Hosting constitute confidential and proprietary information of Rivers Edge Designs and its licensors and embodies trade secrets and intellectual property of



Rivers Edge Designs and its licensors protected under United States copyright and other laws and international treaty provisions. Customer further acknowledges that all right, title, and interest in and to all parts of the Rivers Edge Designs Managed Hosting, including, without limitation, associated intellectual property rights, are and shall remain with Rivers Edge Designs and its licensors. Customer shall not, and shall cause its employees and agents not to, disclose or transfer any portion of the Rivers Edge Designs Managed Hosting to any third party. Customer further agrees not to translate, decompile, reverse engineer, disassemble, modify, reproduce, rent, lease, lend, sublicense, distribute, remarket or otherwise dispose of any portion of the Rivers Edge Designs Managed Hosting. Customer hereby acknowledges that, if Rivers Edge Designs at any time or from time to time performs any customizations or modifications to Rivers Edge Designs Managed Hosting, all rights and interests to such customizations or modifications shall be the sole property of Rivers Edge Designs.

**8. Term and Termination.**

- a. This Agreement shall have an initial term of one (1) month and shall thereafter automatically renew for successive one (1) month periods. This Agreement and Customers access to the Rivers Edge Designs Managed Hostings shall terminate as follows:
  - i. Either party may terminate upon thirty (30) days prior notice;
  - ii. Rivers Edge Designs may immediately and without prior notice terminate upon a violation by Customer of Rivers Edge Designs's Rules and Regulations;
  - iii. Rivers Edge Designs may terminate immediately and without prior notice in accordance with Section 1; and
  - iv. Rivers Edge Designs may terminate immediately if, after 15 days prior notice to Customer, Customer has failed to correct any breach of this Agreement.
- b. In cases where Customer's account has been cancelled by Customer per Section 8(A)(i), and Customer is requesting reactivation, Rivers Edge Designs, at it's option, may reactivate the same account, only if the account had been cancelled less than thirty (30) days prior. Otherwise, or after thirty (30) days, Customer will be required to set up a new account and must pay all associated set-up fees.
- c. To cancel a Rivers Edge Designs MANAGED HOSTING, Customer should send a request via email to [contactus@riversedgedesigns.com](mailto:contactus@riversedgedesigns.com) or by mail to: Rivers Edge Designs, 2168 N Vermont Loop, Kennewick, WA, 99336, USA, Attention: Service Hosting Cancellations. For assurance of mail delivery, Rivers Edge Designs recommends that requests for cancellation are sent via certified mail. In the case of cancellation by email, a confirmation reply sent by Rivers Edge Designs constitutes receipt of cancellation request.
- d. Sections 1, 7, 8, 9, 10, 11, 12, 13 and 14 shall survive any termination of this Agreement.
  - i. **Exclusion of Warranties.** Rivers Edge Designs PROVIDES THE Rivers Edge Designs MANAGED HOSTING ON AN "AS IS" BASIS, AND



WITHOUT ANY WARRANTY OF ANY KIND, whether express or implied, including, but without limitation, any implied warranty of merchantability, or fitness for a particular purpose. While Rivers Edge Designs makes reasonable efforts to maintain the Rivers Edge Designs MANAGED HOSTING, many factors are not within Rivers Edge Designs's control. Therefore, Rivers Edge Designs does not warrant, and is not responsible for (even if caused by the negligence of Rivers Edge Designs) any loss of data, delays, non-delivery or mis-delivery of information, lack of access, slow response time, or service interruptions or errors. Loss, delay or non-delivery of service or data can be due to but not limited to Rivers Edge Designs's own negligence, viruses or other third parties. This disclaimer and waiver shall apply equally to any and all third party providers. While Rivers Edge Designs makes every attempt to secure Customer service from others, it is unlikely but possible for someone to guess operator usernames and passwords, and masquerade as one of Customer's operators. Customer is responsible for ensuring secure operator password use and practices to prevent such an occurrence. While Rivers Edge Designs makes reasonable efforts to accommodate varying types of user (operator and end-customer) computer systems and web browsers, Rivers Edge Designs provides no guarantee to Customer that the service will work with all user systems and browsers, especially older ones. Rivers Edge Designs provides no warranty to Customer regarding the accuracy of usage statistics, which Rivers Edge Designs may provide at its discretion. Further, no advice or information given by a Rivers Edge Designs representative shall create a warranty or serve as an amendment to this agreement. Customer's Data is defined as any data held or generated by Rivers Edge Designs and includes chat session transcripts, service hosting data, user names, descriptive information and user email addresses. Any such Customer's Data is confidential information of the Customer and Rivers Edge Designs will: (i) hold such data in confidence, and not disclose or reveal to any person or entity without the clear and express prior written consent of a duly authorized representative of Customer; and (ii) not use or disclose such data for any purpose at any time. Rivers Edge Designs is not responsible for accidental or deliberate breach of such data while the data is being transmitted to the Customer via emails or other electronic media. Rivers Edge Designs has the right to change prices, or add or delete product features of any existing product or service. Rivers Edge Designs shall honor originally quoted pricing for fees paid in advance. The right to change products or services extends to any software supporting a product or service. Rivers Edge Designs also has the right to deactivate Customer's service with a thirty (30) day notice. Except for certain products and services specifically identified as being offered by Rivers



Edge Designs, Rivers Edge Designs does not control any materials, information, products, or services on the Internet. The Internet contains unedited materials, some of which are sexually explicit or may be offensive to you. Rivers Edge Designs has no control over and accepts no responsibility for such materials. You assume full responsibility and risk for use of the services and the Internet and are solely responsible for evaluating the accuracy, completeness, and usefulness of all services, products, and other information, and the quality and merchantability of all merchandise provided through the service or the Internet.

9. **Limitation of Liability and Damages.** THE TOTAL AGGREGATE LIABILITY OF RIVERS EDGE DESIGNS TO CUSTOMER SHALL BE LIMITED TO THE AMOUNT PAID TO RIVERS EDGE DESIGNS BY CUSTOMER HEREUNDER DURING THE THREE MONTHS IMMEDIATELY PRECEDING A CLAIM IN WHICH RIVERS EDGE DESIGNS IS LIABLE TO CUSTOMER. IN NO EVENT SHALL RIVERS EDGE DESIGNS BE LIABLE FOR ANY INDIRECT, SPECIAL, EXEMPLARY, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, LOSS OF PROFITS OR LOSS OF BUSINESS, REGARDLESS OF WHETHER SUCH DAMAGES ARE BASED UPON BREACH OF CONTRACT, TORT, OR OTHERWISE AND WHETHER OR NOT RIVERS EDGE DESIGNS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
10. **Confidentiality.** Customer acknowledges that by reason of its relationship with Rivers Edge Designs, it may have access to certain information and materials relating to Rivers Edge Designs's business, customers, software technology and marketing which Rivers Edge Designs treats as confidential (collectively "Confidential Information"). Customer shall: (i) hold in confidence, and not disclose or reveal to any person or entity, any Confidential Information without the clear and express prior written consent of a duly authorized representative of Rivers Edge Designs; and (ii) not use or disclose any of the Confidential Information for any purpose at any time, other than for the limited purpose of performance under this Agreement. These obligations shall continue indefinitely for so long as the Confidential Information is a trade secret under applicable law and shall continue for two (2) years following termination of this Agreement with respect to Confidential Information, which does not rise to the level of a trade secret.
11. **Indemnification.** Customer shall indemnify and hold Rivers Edge Designs harmless against all third party claims, demands, suits, actions, judgments, losses, costs, damages (direct, indirect and consequential), attorney's fees and expenses that Company may sustain or incur by reason of any breach or alleged breach of any term or condition of this Agreement (including reasonable attorney's fees) and for any act or omission of Customer or its clients which are in any way related to the Rivers Edge Designs Managed Hosting.
12. **Export Control.** Customer agrees to comply with all United States and other applicable laws, rules and regulations relating to the export, re-export or transshipment of the Rivers Edge Designs Rivers Edge Designs Managed Hosting within or outside of the United States.



13. **Force Majeure.** Either party shall be excused from any delay or failure in performance hereunder caused by reason of any occurrence or contingency beyond its reasonable control, including but not limited to, natural disasters, labor disputes and strikes, riots, war, and governmental requirements. The obligations and rights of the party so excused shall be extended on a day-to-day basis for the period of time equal to that of the underlying cause of the delay.
14. **Miscellaneous.** Customer may not assign its rights or delegate any of its duties under this Agreement without the prior written consent of Rivers Edge Designs, and any attempted assignment or delegation without such consent shall be void. If one or more provisions of this Agreement shall be held to be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby. Nothing in this Agreement or in the understanding of the parties construes upon the parties the status of partners or joint ventures. Rivers Edge Designs may subcontract any work, obligations or other performance required of Rivers Edge Designs under this Agreement without consent of Customer provided Rivers Edge Designs shall ensure continuity in services rendered under this Agreement which if not so done shall amount to material breach of the terms of the Agreement. Other than the termination of this agreement, all notices provided hereunder sent by email, mail or certified mail to Rivers Edge Designs, will be effective upon transmission. Rivers Edge Designs has the right to amend the Agreement from time to time, and will do so by mailing or emailing the new Agreement to all active Customers. The Agreement shall be governed by the laws of Washington, without giving effect to applicable conflict of laws provisions. The federal and state courts located in Richland, Washington, USA alone have jurisdiction over all disputes arising out of or related to this Agreement and the Services. Customer consents to the personal jurisdiction of such courts sitting in Washington, USA with respect to such matters or otherwise between Customer and Rivers Edge Designs, and waives Customer's rights to removal or consent to removal. In the event any litigation or other proceeding is brought by either Party in connection with this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to recover from the other Party all costs, attorneys' fees and other expenses incurred by such prevailing Party in such litigation.