

HOSTING TERMS OF SERVICE

The following terms of service (these "Hosting Terms of Service" or this "Agreement") govern the provision by MASS Productions to the customer executing this transaction ("Customer"), of the products and services described in (i) the agreement submitted in connection with this transaction (the "Web Hosting Agreement" or "Order Form"), (ii) the Service Level Agreement (as in effect from time to time and set forth on MASS Productions' website, the "SLA") governing the Customer's limited right to recover certain service credits and (iii) MASS Productions' technical support descriptions (collectively clauses (i) through (iii), the "Products and Services"). These Hosting Terms of Service shall be effective as of the date that Customer executes its transaction and thereby accepts these Hosting Terms of Services (the "Commencement Date"). These Hosting Terms of Service hereby incorporate by reference the SLA, MASS Productions' Acceptable Usage Policy (as in effect from time to time as set forth on MASS Productions' website, the "AUP") and the Web Hosting Agreement each of which is made a part of these Hosting Terms of Service and collectively referred to herein as the "Agreement." Customer's use of MASS Productions' website, MASS Productions' Network, and the Products and Services is also subject to Customer's acceptance and compliance with these Hosting Terms of Service, the AUP, the SLA and the Web Hosting Agreement. Capitalized terms used herein without being defined herein shall have the meaning ascribed to such capitalized term in the SLA or AUP, as applicable. **MASS PRODUCTIONS HEREBY RESERVES THE RIGHT TO AMEND, ALTER, MODIFY, REPLACE OR SUSPEND, FROM TIME TO TIME IN ITS SOLE DISCRETION, ALL OR ANY PORTION OF THE SLA, THE AUP AND ITS PRIVACY POLICY (AS IN EFFECT FROM TIME TO TIME AS SET FORTH ON MASS PRODUCTIONS' WEBSITE, THE "PRIVACY POLICY"). CURRENT COPIES OF MASS PRODUCTIONS SLA, AUP AND PRIVACY POLICY MAY BE REVIEWED OR PRINTED BY CUSTOMER AT THE LEGAL SECTION OF MASS PRODUCTIONS WEBSITE. CUSTOMER HEREBY REPRESENTS AND WARRANTS THAT IT HAS READ, UNDERSTOOD AND ACCEPTED THE TERMS OF THE SLA, AUP AND PRIVACY POLICY.**

- 1. Services and Commitments.** MASS Productions agrees to provide the Products and Services in accordance with the terms and conditions of this Agreement beginning on the Commencement Date. MASS Productions may perform additional technical, supplemental, or professional services (other than the Products and Services) for Customer at either MASS Productions' published pricing rates or at rates mutually agreed to in writing between Customer and MASS Productions. Also, MASS Productions may perform remedial services as provided for in the Acceptable Use Policy at the pricing set forth therein and without obtaining Customer's consent in advance. Customer. If a Customer subscribes for any Product and Service for a term other than on a month-to-month basis, the Customer shall pay MASS Productions in accordance to the schedule set out in the Web Hosting Agreement.
- 2. Term and Renewal.** Unless Customer agrees to a one-year term or unless otherwise stated in an Order Form or any service description, the initial term ("Initial Term") of this Agreement shall be month-to-month, commencing on the Commencement Date and shall automatically renew (A) in the case of a month-to-month term, the first day of each month for successive one-month periods unless cancelled or terminated earlier pursuant to the express terms of this Agreement or (B) in the case of a one-year term, each yearly anniversary of the Commencement Date for successive one-year periods unless cancelled or terminated earlier pursuant to the express terms of this Agreement (in each case, a "Renewal Period"). Customer agrees to be bound by the service term selected. MASS Productions may cancel or elect not to renew the Products and Services for any reason or no reason at all by delivering to Customer a written notice of non-renewal at least five (5) days prior to the expiration of the Initial Term or the then-current Renewal Period, as applicable.
- 3. Customer Cancellation or Non-Renewal.** In order to cancel or elect not to renew any Product or Service, Customer must submit to MASS Productions' a written notice specifying Customer's election to cancel or not renew the Products and Services at least two (2) days prior to expiration of the Initial Term or the then-current Renewal Term. **CUSTOMER ACKNOWLEDGES AND AGREES THAT NO PRODUCT OR SERVICE WILL BE CANCELLED, ALL PRODUCTS AND SERVICES SHALL CONTINUE TO RENEW AND CUSTOMER WILL CONTINUE TO BE BILLED FOR ALL PRODUCTS AND SERVICES UNLESS CUSTOMER CANCELS THE PRODUCTS AND SERVICES AS PROVIDED IN THIS SECTION 3.**

- 4. Termination.** MASS Productions may immediately terminate this Agreement at any time, and without liability, upon the occurrence of any of the following events ("MASS Productions Termination"): (i) Customer's failure to pay any overdue amount within ten days after written notice by MASS Productions is given to Customer or (ii) Customer's material breach or violation of any provision of this Agreement (other than such violations set forth in clauses (iii), (iv) and (v) below) that is not cured within ten (10) days of Customer's receipt of written notice from MASS Productions referencing such breach or violation; (iii) Customer ceasing to do business in the normal course, becoming or being declared insolvent or bankrupt, being the subject of any proceeding relating to liquidation or insolvency which is not dismissed within ninety (90) calendar days, or making an assignment for the benefit of its creditors; (iv) Customer's violation of the AUP or the Privacy Policy; or (v) MASS Productions determines in its sole discretion that Customer continues to host content that may subject MASS Productions to legal liability (in which case, MASS Productions may terminate or modify the Products and Services to avoid such liability).

Customer may terminate this Agreement with respect to all, and not less than all, of the Products and Services without liability (except for Charges due through the effective date of such termination) upon the occurrence of a material breach by MASS Productions of its obligations to provide the Products and Services according to the terms of this Agreement that is not cured within ten (10) business days after written notice from Customer describing such breach in detail is received by MASS Productions ("Customer Termination"). In the event of a Customer Termination, Customer shall pay (1) all outstanding amounts payable through the effective date of such termination and (2) if the Products and Services include software for which MASS Productions does not then provide general customer support, Customer shall pay to MASS Productions an amount equal to MASS Productions' cost of such software for the entire Initial Term and any applicable Renewal Periods. If Customer terminates this Agreement for any reason other than a Customer Termination, Customer shall pay to MASS Productions an amount equal to all unpaid Charges through the effective date of such termination and (A) in the case of any Product and Service subscribed for on a month-to-month basis, all Charges for the Products and Services through the remainder of the Initial Term or the then-current Renewal Term, as applicable and (B) in the case of any Product and Service subscribed for other than on a month-to-month basis, all Charges for the Products and Services through the remainder of the Initial Term or the then-current Renewal Term, as applicable, calculated based upon the then-current Minimum Monthly Commitment payable by Customer upon the date of termination. CUSTOMER ACKNOWLEDGES THAT CUSTOMER WILL NOT BE ENTITLED TO ANY REFUND OR CREDIT IN THE EVENT THAT ANY PRODUCT OR SERVICE THAT IS PROVIDED ON THE BASIS OF A ONE-YEAR TERM IS TERMINATED, WITH OR WITHOUT CAUSE, PRIOR TO THE EXPIRATION OF THE ONE-YEAR TERM. CUSTOMER HEREBY WAIVES ALL RIGHTS TO ANY SUCH REFUND OR CREDIT.

Upon termination of this Agreement, MASS Productions and Customer shall have no obligations to each other, except as provided for in this Agreement. Upon termination of this Agreement, Customer shall (i) pay all Charges and other amounts due and owing to MASS Productions under these Hosting Terms of Service, (ii) immediately remove from MASS Productions' premises all property owned by Customer, including, but not limited to, immediately removing all of Customer's data from MASS Productions Network (including all servers owned or operated by MASS Productions), and (iii) return to MASS Productions all software, access keys, and any other property provided to Customer by MASS Productions under this Agreement. Any physical property of Customer not removed from MASS Productions' premises within forty-five (45) days after such termination shall become the property of MASS Productions, which may, among other things, dispose of such property without the payment of any compensation to Customer. Sections 4, 5, 6, 7 and 8 shall survive the expiration, cancellation and termination of this Agreement for any reason.

- 5. Payment.** Customer agrees to pay all charges, fees, penalties, early cancellation charges, reconnection fees, service interruption fees, installation fees and other amounts due under this Agreement (collectively "Charges") in the currency specified within the Web Hosting Agreement. Customer agrees that where no currency is specified in the agreement that the amount owing will be in Canadian Dollars. Each Customer that is a Canadian resident agrees to pay all taxes applicable to its account. Except as otherwise provided for herein, all Charges for the Products and Services, and for any additional services described herein, shall be invoiced to the Customer and paid in advance of the Initial Term and each Renewal Term (but may include any applicable pro-rated amounts for partial months of for Products and Services provided on a month-to-month basis) and shall be due and payable upon receipt. Any additional one-time charges, including early cancellation charges, accrued interest, late fees, service reinstatement fees, and any usage-based charges (installation or set-up fees) shall be invoiced in arrears and appear on either regular monthly invoices or separate invoices. Server rental charges are incurred immediately. Customer also shall pay to MASS Productions all expenses incurred by MASS Productions in exercising any of its rights under this Agreement or applicable law with respect to the collection of a payment default, including attorneys' fees, court costs, and collection agency fees. If Customer fails to pay any past due amount within five (5) days after written notice by MASS Productions is given to Customer, MASS Productions may suspend performance under this Agreement and if such past due amounts remain unpaid for an additional five (5) days thereafter, MASS Productions may terminate this Agreement. MASS Productions may charge interest on any invoice amounts that are overdue by more than ten (10) days at the 1.5% per month or (b) the maximum non-usurious rate under applicable law. Customer shall be deemed to have accepted as conclusively accurate any invoice that it has not disputed in a writing delivered to MASS Productions within sixty (60) days of the invoice date. Customer may withhold the disputed portions of payments that are properly and timely disputed hereunder as long as it timely pays all undisputed charges that are outstanding. The parties shall work together in good faith to resolve any such disputed charge. In the event that this Agreement is terminated by MASS Productions for any reason constituting "MASS Productions Termination" (as defined above) or by Customer for any reason other than "Customer Termination" (as defined above), all Charges under the Agreement, including all remaining monthly or yearly fees due for the remaining portion of the Initial Term and each applicable Renewal Period, shall accelerate and are immediately due and payable. All set-up fees, monthly service fees and usage fees are non-refundable. Customer shall not be entitled to any refunds or credits, pro-rated or otherwise, in the event of early termination of this Agreement by MASS Productions according to the terms herein.
- 6. Indemnification.** Customer agrees to indemnify and hold harmless MASS Productions, its subsidiaries, their affiliates and each of their respective directors, officers, employees, shareholders and agents (each an "Indemnified Party") against any losses, claims, damages, liabilities, penalties, actions, proceedings, judgments, or any and all costs thereof (collectively, "Losses") to which an Indemnified Party may become subject and which Losses arise out of, or relate to the Agreement, Customer's use of the Products and Services, breach of any confidentiality obligation or any alleged infringement of any trademark, copyright, patent or other intellectual property right and will reimburse an Indemnified Party for all legal and other expenses, including reasonable attorneys' fees incurred by such Indemnified Party, in connection with investigating, defending, or settling any Loss, whether or not in connection with pending or threatened litigation in which such Indemnified Party is a party.

7. Disclaimers; Limitation on Company Liability.

MASS PRODUCTIONS SHALL NOT BE LIABLE FOR (i) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFITS OR LOSS OF REVENUE RESULTING FROM THE USE OF THE PRODUCTS AND SERVICES BY THE CUSTOMER OR ANY THIRD PARTIES OR ANY FAILURE OF THE PRODUCTS AND SERVICES OR (ii) ANY LOSS OF DATA OR CORRUPTION OF DATA, INCLUDING LOSS OF DATA RESULTING FROM DELAYS, NONDELIVERIES, MISDELIVERIES, SERVICE INTERRUPTIONS, FAILURE OF MASS PRODUCTIONS NETWORK, FAILURE OF SERVERS, THE RELOADING OF AN OPERATING SYSTEM OR OTHER SOFTWARE ON A SERVER OR THE NEGLIGENCE OF MASS PRODUCTIONS. CUSTOMER IS SOLELY RESPONSIBLE FOR SAFEGUARDING, BACKING UP AND ARCHIVING ALL DATA OWNED, CONTROLLED OR TRANSMITTED BY CUSTOMER THAT RESIDES ON MASS PRODUCTIONS NETWORK OR ANY SERVER OWNED OR OPERATED BY MASS PRODUCTIONS.

IN NO EVENT SHALL MASS PRODUCTIONS'S AGGREGATE LIABILITY FOR ANY CLAIM UNDER THIS AGREEMENT EXCEED THE AGGREGATE AMOUNT PAID BY CUSTOMER TO MASS PRODUCTIONS IN THE BILLING CYCLE IMMEDIATELY PRECEDING SUCH CLAIM.

MASS PRODUCTIONS PROVIDES ALL PRODUCTS AND SERVICES "AS IS," WITHOUT WARRANTY OF ANY KIND, WHETHER EXPRESS OR IMPLIED AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SELECTION, USE AND SUITABILITY OF THE PRODUCTS AND SERVICES AND MASS PRODUCTIONS SHALL HAVE NO LIABILITY THEREFORE.

NO CLAIM MAY BE ASSERTED BY CUSTOMER AGAINST MASS PRODUCTIONS MORE THAN TWO (2) YEARS FOLLOWING THE DATE OF THE EVENT THAT UNDERLIES ANY SUCH CLAIM.

CUSTOMER ACKNOWLEDGES AND AGREES THAT THE RECEIPT OF A SERVICE CREDIT PROVIDED FOR IN THE SERVICE LEVEL AGREEMENT CONSTITUTES CUSTOMER'S SOLE AND EXCLUSIVE REMEDY, AND MASS PRODUCTIONS'S SOLE AND EXCLUSIVE LIABILITY, FOR ANY FAILURE OF MASS PRODUCTIONS NETWORK, MASS PRODUCTIONS HARDWARE OR MASS PRODUCTIONS INFRASTRUCTURE OR THE FAILURE BY MASS PRODUCTIONS TO PROVIDE CUSTOMER WITH THE PRODUCTS AND SERVICES OR MANAGED HOSTING SERVICES PURCHASED BY CUSTOMER IN ACCORDANCE WITH THIS AGREEMENT WHICH RESULTS FROM A QUALIFIED NETWORK DOWNTIME EVENT OR ANY OTHER QUALIFIED DOWNTIME EVENT.

8. Miscellaneous Terms.

Bandwidth and Disk Usage. Customer agrees that bandwidth and disk usage shall not exceed the number of megabytes per month for the Products and Services ordered by Customer on the Order Form (the "Agreed Usage"). MASS Productions will monitor Customer's bandwidth and disk usage. MASS Productions shall have the right to take corrective action if Customer's bandwidth or disk usage exceeds the Agreed Usage. Such corrective action may include the assessment of additional charges, disconnection or discontinuance of any and all Products and Services, or termination of these Hosting Terms of Service, which actions may be taken by MASS Productions in its sole and absolute discretion. If MASS Productions takes any corrective action under these Hosting Terms of Service, Customer shall not be entitled to a refund of any fees paid in advance prior to such action. Bandwidth usage is measured on a calendar month basis. Both incoming and outgoing traffic is counted and applied towards the Agreed Usage. In the event that Customer exceeds the Agreed Usage, MASS Productions may, at its sole discretion, collect a deposit, in the amount of \$1.50 per GB from Customer, or to the extent that Customer has a credit card on file with MASS Productions, apply such charge against Customer's credit card. Data transfer in excess of the Agreed Usage shall be automatically billed to Customer. Unused Agreed Usage or bandwidth allocations cannot be carried over to future months or applied to other servers.

Notices. Unless otherwise specified herein, all notices, requests and other communications hereunder shall be sufficiently given if in writing and delivered personally or sent by facsimile transmission, internationally recognized overnight courier, or registered or certified mail (return receipt requested) to the address or facsimile number of Customer listed in MASS Productions's records or if to MASS Productions then to the address set forth below. Such notices or other communications shall be deemed to have been given (a) on the date delivered (if delivered personally), (b) on the date that return confirmation is received (if sent by facsimile), (c) on the business day after being sent by an internationally recognized overnight air courier, or (c) five days after being sent (if sent by registered or certified mail).

MASS Productions

121 Summit Drive

Nanaimo, BC

V9T 4Y2

Attn: Legal Department

Phone: (250) 760-0810

Fax: (250) 760-0872

Email: legal@mass-productions.com

Waiver. It is agreed that no waiver by any party hereto of any breach or default of any of the covenants or agreements herein set forth shall be deemed a waiver as to any subsequent and/or similar breach or default.

Severability. If one or more of the provisions contained in this Agreement are found to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not be affected.

Force Majeure. Neither party shall lose any rights hereunder or be liable to the other party for damages or losses on account of failure of performance by the defaulting party if the failure is occasioned by any occurrence or contingency beyond its reasonable control, including war, strike, fire, Act of God, earthquake, flood, lockout, embargo, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the nonperforming party; provided that such party shall use commercially reasonable efforts to promptly mitigate any damages or losses.

MASS Productions's Use of Customer's Name. Customer agrees that MASS Productions may, upon written consent by Customer, publicly disclose that MASS Productions is providing services to Customer and may include Customer's name in any promotional materials, such as press releases or MASS Productions's web site. Neither party may publicly use the other party's logo or other trade or service mark without that party's written consent.

Non-Solicitation. During the term of this Agreement and for twelve (12) months following termination of this Agreement, Customer agrees that it shall not solicit for employment with Customer (or with any other party) any employee of MASS Productions or interfere in the employment relationship between MASS Productions and any of its employees with whom Customer has had contact in connection with this Agreement.

Ownership. MASS Productions shall be the sole owner of all intellectual property, and all derivatives thereof, that MASS Productions may develop in the course of providing the Products and Services. Each party to this Agreement retains exclusive ownership and rights in its trade secrets, inventions, copyrights, and other intellectual property. Upon termination of the Agreement, Customer agrees to promptly release any Internet protocol numbers, addresses, or address blocks assigned to Customer in connection with the Products and Services.

Proprietary Information. Proprietary information exchanged here under shall be treated as such by Customer. This information shall include, but not be limited to, the provisions of this Agreement, product and services information and pricing. Customer further agrees to no decompose, disassemble, decode or reverse engineer any MASS Productions program, code or technology delivered to Customer or any portion thereof.

Customer Hardware. MASS Productions acknowledges and agrees that the hardware provided by Customer to MASS Productions to be used in connection with any Products and Services (the "Customer Hardware") is the property of Customer and shall be tagged and identified as such. MASS Productions shall not pledge, hypothecate or otherwise encumber the Customer Hardware in any way and upon demand by Customer shall surrender the Customer Hardware to Customer, unless Customer fails to remove such Customer Hardware as provided for in Section 4 above.

Third-Party Beneficiaries. There shall be no third party beneficiaries to the Agreement, including customers, employees, agents, or insurers.

Assignment. This Agreement shall not be assignable by Customer without MASS Productions's prior written consent. MASS Productions may assign the Agreement in whole or in part upon written notice to Customer. This Agreement shall be binding upon and accrue to the benefit of any permitted assignee, and any such assignee shall agree to perform the obligations of the assignor.

- 9. Jurisdiction.** This Agreement sets out the entire agreement of the parties relating to these matters, and the parties agree that this Agreement will be governed by the laws of the Province of British Columbia.