

HOSTING AGREEMENT

1. Definitions.

1.1 "Customer" means the persons, entity or agents and authorized representatives accepting this agreement.

1.2 "Content" means all text, pictures, sound, graphics, video, links, and other data stored by Customer on Web Candy Design Inc server computers.

1.3 "Website" means pages presenting the Content stored by Customer on Web Candy Design Inc server computers.

1.4 "User" means users of Customer's Website.

1.5 "User Content" means all text, pictures, sound, graphics, video, links, and other data stored by Users on Web Candy Design Inc server computers.

1.6 "Confidential Information" means information that Customer takes reasonable steps to maintain in confidence and identifies in writing to Web Candy Design Inc as confidential.

2. Web Hosting.

2.1 - Hosting.

Web Candy Design Inc will provide dedicated or shared server computers, as specified in Appendix A, with an Internet address for storage and access of Content, User Content, and the Website. The Website, Content, and User Content must be "server-ready." Web Candy Design Inc will provide bandwidth and storage as specified in Appendix A. If Customer requires additional bandwidth or storage, Web Candy Design Inc will negotiate in good faith to amend this Agreement unless Web Candy Design Inc server computers cannot accommodate the requested bandwidth or storage.

2.2 - Website Backup.

Web Candy Design Inc will back up the Website in a commercially reasonable manner. However, Web Candy Design Inc is not responsible for lost content or lost user content. Website backups will be stored by Web Candy Design Inc for at least 60 days before they may be purged. Web Candy Design Inc will

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provide, at Customer's expense, an electronic copy of the backup Website to Customer upon written request by Customer. Backups are intended for disaster recovery, not the restoration of individual files. The Customer via the control panel may archive their own website backups at their own leisure.

2.3 - Server Logs.

As requested by Customer, Web Candy Design Inc will deliver to Customer in electronic form the Server Log of Website activity. Customer will be entitled to one month of log storage free of charge. Web Candy Design Inc may, at its option, charge a fee to Customer for additional space required to store oversized logs.

2.4 - Standards.

Web Candy Design Inc services will conform to the following:

2.4.1 - Availability of Website.

Web Candy Design Inc will provide hosting services for the Website that meet reasonable commercial standards for, among other matters, packet loss, accessibility, latency, availability, and throughput.

2.4.2 - Security.

Web Candy Design Inc will take commercially reasonable steps to prevent unauthorized access to the Website, Content, User Content, and Confidential Information stored on Web Candy Design Inc server computers.

2.4.3 - Server/Network Computer Outages.

Web Candy Design Inc will employ best efforts in providing advance notice to Customer of scheduled server computer/network outages.

2.4.4 - Disclaimers.

Web Candy Design Inc provides no equipment, software, or communication connections to Customer. Web Candy Design Inc makes no representations, warranties or assurances that the Customer's equipment, software, and communication connections will be compatible with Web Candy Design Inc hardware and service.

3. Ownership of Content.

All Content and User Content stored by Customer on Web Candy Design Inc server computers shall at all times remain the property of Customer. Customer grants to Web Candy Design Inc a non-exclusive,



Web Candy Design Inc.

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worldwide license to the Content and User Content only to the extent necessary for Web Candy Design Inc to host the Website.

4. Content Control.

4.1 - Lawful Purpose.

Customer will only use Web Candy Design Inc hardware and services for lawful purposes and Customer will not store or provide any Content or User Content or link to any material that violates foreign, federal, state or local law, the Terms of Service (Appendix C) any modifications thereof, Web Candy Design Inc's posted Acceptable Use Policy (Appendix B), or any other Web Candy Design Inc policy.

4.2 - Remedy for Violation.

Should Web Candy Design Inc become aware that Customer has violated Part 4.1, Web Candy Design Inc may, at its option, remove the Content or User Content in violation, immediately terminate hosting Customer's Website under Part 6.3, and/or notify authorities. If hosting is terminated, Web Candy Design Inc may, in its sole discretion, reinstate hosting upon adequate showing of Customer's right to use the Content or User Content.

5. Payments.

5.1 - Fees.

Customer shall pay fees agreed upon during account signup. Web Candy Design Inc will invoice yearly, and payment is due fourteen (14) days from invoicing. In the case of credit card payments Web Candy Design Inc will automatically charge Customer Credit Card on file all fees associated with the account on the due date. Web Candy Design Inc may, at its option, charge a 10% fee for late payments.

5.2 - Returned Checks and Declined Credit Cards may incur a fee.

5.3 - Account Updates.

It is the responsibility of the customer to maintain accurate billing information with Web Candy Design Inc. This may include updated credit card information, email address and mailing address.

5.4 - Taxes.

Customer is solely liable for any taxes or fees payable for products or services sold by Customer on the Website.



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6. Term and Termination.

6.1 - Term.

The initial term is agreed upon during account signup. After the initial term, this Agreement will automatically renew on a yearly basis until terminated.

6.2 - Termination by Customer.

During the initial term, Customer may terminate this Agreement upon the material breach of Web Candy Design Inc , if such material breach remains uncured for thirty (30) days following written notice to Web Candy Design Inc . This period shall be extended if delay is caused by events beyond the control of Web Candy Design Inc including, but not limited to, natural disasters, governmental prohibitions or regulations, viruses that did not result from the acts or omissions of Web Candy Design Inc , or technical faults of Web Candy Design Inc service providers or vendors. After the initial term, Customer may terminate this Agreement upon fourteen (14) days written notice to Web Candy Design Inc .

6.3 - Termination by Web Candy Design Inc .

Web Candy Design Inc may immediately terminate this Agreement for cause at any time without penalty. Causes justifying immediate termination include, but are not limited to: violation of any foreign, federal, state, or local law; non-payment of fees due under Part 5 of this Agreement; breach of this Agreement; violation of the Terms of Service (Appendix C) and any written modifications thereof; and violation of any other Web Candy Design Inc policy. Web Candy Design Inc may terminate this Agreement without cause at any time upon thirty (30) days written notice to Customer.

7. DISCLAIMER OF WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED HEREIN, WEB CANDY DESIGN INC , AND ITS OWNERS, EMPLOYEES, AFFILIATES, AGENTS, VENDORS, AND THE LIKE, MAKE NO WARRANTY IN CONNECTION WITH WEB CANDY DESIGN INC HARDWARE OR SERVICES, WHETHER WRITTEN OR ORAL, STATUTORY, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF TITLE, NON-INGRINEMENT, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE.

8. LIMITATION OF LIABILITY. WEB CANDY DESIGN INC , ITS OWNERS, EMPLOYEES, AFFILIATES, AGENTS, VENDORS, AND THE LIKE SHALL NOT BE LIABLE FOR ANY LOST PROFITS, LOST BUSINESS, LOST DATA OR DIRECT, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OR INABILITY TO USE WEB CANDY DESIGN INC HARDWARE OR SERVICES. CUSTOMER AGREES THAT ITS SOLE



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AND EXCLUSIVE REMEDY SHALL BE RETURN OR REDUCTION OF FEES PAYABLE TO WEB CANDY DESIGN INC .

9. Customer Indemnity.

Customer shall defend Web Candy Design Inc against any third party claim, action, suit or proceeding arising as a result of Customer's use Web Candy Design Inc hardware or services and indemnify Web Candy Design Inc for all losses, damages, expenses, and costs incurred by Web Candy Design Inc as a result of a final judgment entered against Web Candy Design Inc in any such claim, action, suit or proceeding.

10. General Provisions.

10.1 - Governing Law.

This Agreement will be governed and construed in accordance with the laws of the Province of Alberta. Both parties agree to submit to personal jurisdiction in Calgary, Alberta, Canada, and further agree that any cause of action or dispute arising under this Agreement will be litigated or arbitrated in Calgary Alberta, Canada.

10.2 - Severability and Waiver.

If any provision of this Agreement is held invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated in any way. The waiver by either party of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

10.3 - Relationship of Parties.

No agency, partnership, joint venture, or employment relationship is created by this Agreement and neither party has the power to bind the other party.

10.4 - Attorneys Fees and Costs.

In the event that any legal action becomes necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled, in addition to its court costs, to such reasonable attorneys' fees, expert witness fees and legal expenses as may be fixed by a court of competent jurisdiction.



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Appendix A

Web Candy Hosting Acceptable Use Policy

Customer shall not do any of the following, or permit any third party under its control (including its customers and their authorized users) to do the following, and must include provisions in its service agreements for its customers and authorized users that restrict them from doing any of the following:

- i. upload, post, publish, transmit, reproduce, distribute, or participate in the transfer or sale, or in any way exploit any information, software or other material obtained through the Internet which is PROTECTED BY COPYRIGHT or other proprietary rights or derivative works with respect thereto, without obtaining permission of the copyright owner or right holder; or
- ii. use the SMTP services of a third party for the purposes of relaying or sending electronic mail messages without the express permission of that third party; or
- iii. host a publicly-accessible "open relay" SMTP or anonymous remailer service for any purpose, cause, or reason; or
- iv. post a commercial advertisement to any USENET newsgroup, Internet "chat room", bulletin board, or similar forum, if the target forum is not specifically chartered for public advertisement by non-private parties of items "for sale" or
- v. post to any USENET Newsgroup or other newsgroups, forum, email mailing list or similar group or list articles which are off-topic according to the charter or other public statement of the group; or
- vi. send Unsolicited Commercial E-mail (UCE , also known as SPAM) to any number of e-mail users or lists; or
- vii. engage in any activity that is, or appears to be, an attempt to gain unauthorized access to a remote system or network, or to gain information that could later be used to assist in gaining unauthorized access to a remote system or network, such as port scanning, dictionary attacks, Denial of Service attacks, server/service hijacking, etc.; or
- viii. engage in any of the foregoing activities using the service of another provider, but channeling such activities through a Web Candy Design Inc account or remailer, or using a Web Candy Design Inc account as a mail drop for responses to UCE, or hosting a website that is advertised via UCE that originates from a non-Web candy Design Inc's -connected source, or otherwise requiring return transit through Web Candy Design Inc internet backbone; or available to the members of the list(s); or
- ix. falsify or "spoof" user information provided to Web Candy Design Inc or to other users of the Service, and for handling all complaints and trouble reports made by its own customers and authorized users; or

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- x. use the Service in violation or contravention of the Telecommunications Act 1993, C38, (<http://www.crtc.gc.ca/ENG/LEGAL/TELECOM.HTM>) as or any other applicable law, regulation, order or other governmental directive, or abuse or fraudulently use the Service in any way not specifically set forth above.

Further, if customer is notified by Web Candy Design Inc Abuse Response Team, via e-mail or the Customer discovers on their own or through any other means, that the Customer themselves or any third party under Customers control of a violation of this AUP, the Customer will take whatever steps are necessary to stop such activity, and prevent repeat violations by the offending entity.

The customer will respond to all violations reported within 1 (one) business day of the violation being reported, and will have put a stop to the activity within 2 (two) business days of the violation first being reported. Web Candy Design Inc reserves the right to disconnect Customers systems until such abuse has been eliminated.

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Appendix B

Web Hosting Terms of Service

1. Web Candy Design Inc may only be used for lawful purposes. Customer will not store or provide any Content or User Content that: (a) violates any federal, Provincial, or municipal law, statute, ordinance, or regulation (including, without limitation, export control, consumer fraud, unfair competition, antidiscrimination, gambling, or false advertising laws); (b) is defamatory, trade libelous, unlawfully threatening, or unlawfully harassing; (c) is obscene, child pornographic, or indecent; (d) violates any third party's right of publicity or right of privacy; or (e) contains any IRC application, bots, egg drops, viruses, trojan horses, worms, time bombs, cancel bots or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information.
2. Customer will not store or provide any Content or User Content, practice any software or business methods, or use a domain name that infringes any party's Intellectual Property. "Intellectual Property" means any and all property rights under copyright, moral right, trademark, patent, trade secret, or right of publicity law, or any other rights in works of authorship, inventions, designations of source, persona, or economically valuable information.
3. Web Candy Design Inc exercises no control over the Content, User Content, or other information passing through Web Candy Design Inc.
4. Web Candy Design Inc does not monitor and is not obligated to monitor the Content and User Content and has not been informed by Customer of the Content, User Content, or nature of the Content on Customer's Website.
5. Customer will not use Web Candy Design Incs' hardware or service to misrepresent Customer's identity.
6. Customer will not attempt to undermine the security or integrity of, or gain unauthorized access to, Web Candy Design Incs' hardware, operating systems or any other computing systems or networks.
7. Customer will not attempt to use IP Address not directly assigned by Web Candy Design Inc staff. Attempting to use unauthorized IP Addresses may result in IP Conflict. Any server found using IPs, which was not officially assigned, will be suspended from network access until such time as the IP address conflict can be corrected.



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8. Customer will use Web Candy Design Incs' hardware and services in accord with Web Candy Design Incs Acceptable Use Policy. Customer's continued use of Web candy design Incs' hardware and services constitutes Customer's acceptance of the Acceptable Use Policy and any modifications thereof.

9. If Web Candy Design Inc becomes aware of a violation of the Terms of Service, Web Candy Design Inc will investigate and may, in its sole discretion, terminate hosting under the Hosting Agreement.

10. These Terms of Service may be modified at any time. Any modifications will be delivered to Customer in electronic mail or written form, and posted at Web candy Design Incs' website. Customer's continued use of Web Candy Design Incs hardware and services after modification of these Terms of Service constitutes Customer's acceptance of the modifications.

11. Customer will require Users to agree to and abide by these Terms of Service or substantially equivalent terms.



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