

# RunCentral, LLC.

(referred to as RunCentral in this agreement)

## Terms and Conditions of Use

This Terms and Conditions of Use Agreement (the "Agreement") controls your (referred to as "Customer," "you," or "your") use of RUNCENTRAL web site hosting and related services. Any or all of these services, including the software that may be provisioned to you by RUNCENTRAL as part of your use of the services whether RUNCENTRAL proprietary software or third party software (collectively RUNCENTRAL software"), are referred to as the RUNCENTRAL Services" or "the Services." In this agreement you and RUNCENTRAL may be collectively referred to as "the parties."

Please read this Agreement in its entirety. By downloading RUNCENTRAL software or using the Services or software, you agree to be bound by this Agreement and other user policies and agreements RUNCENTRAL may establish from time to time including the RUNCENTRAL Acceptable Use Policy. **If you do not wish to be bound by this Agreement and the other RUNCENTRAL policies, please do not use RUNCENTRAL Services.**

This Agreement is effective as of the Customer account creation date (the "Effective Date") between the Customer and RUNCENTRAL. RUNCENTRAL agrees to provide hosting services and Customer agrees to accept and utilize RUNCENTRAL's service according to the terms of this Agreement and the Order Form (if applicable) which has been executed by the parties and attached hereto.

**1. Service.** You must be at least eighteen (18) years of age to subscribe to RUNCENTRAL's Service. Customer is responsible for all use of Customer's account and maintaining the confidentiality of Customer's password(s). RUNCENTRAL will suspend access or change access to Customer's account upon notification by Customer that his or her password has been lost, stolen or otherwise compromised. Customer may not transfer or give out its password to third parties, and Customer shall remain liable for all charges incurred for use of the Services. RUNCENTRAL shall not be liable for any usage or charges prior to RUNCENTRAL making the necessary account alteration.

**2. Technical Support.** RUNCENTRAL will provide technical support consulting services via telephone, electronic mail ("e-mail") and facsimile to assist in verifying the account features of RUNCENTRAL's intended functionality of the Customer's server and hosting Service ("Technical Support"). The account features include various products produced by third party vendors. The Technical Support staff can assist with the setup and configuration of the server and third party products; however, the usability, custom configurations, coding and troubleshooting fall under the support offerings of the third party vendor so Technical Support will be unable to assist with the aforementioned offerings.

Technical Support does not serve as a consultant to correct and rewrite programming code and scripting-related issues. Only RUNCENTRAL-created Services and non-Customer configured Services will be supported to this extent. No e-mails from RUNCENTRAL, including Technical Support e-mail, may be resent, distributed or posted on any media accessible to the public (including, but not limited to, any Internet site or bulletin board) by Customer, without RUNCENTRAL's prior written consent. Technical Support shall consist only of the consulting services set forth above, and in no event shall it include any other support functions or Services, including, but not limited to, maintenance or repair of Customer's hardware or custom configurations to the server.

## RunCentral – Terms and Conditions (Continued...)

Technical Support will be provided only to either Customer or Customer's technical or administrative contact. If Customer requires technical assistance beyond the conditions set forth above and RUNCENTRAL determines that it has the technical resources for assistance, Customer shall be charged at RUNCENTRAL's standard hourly rate. The hourly rate will be applied to Services not designated as Technical Support, as defined above, or for any Technical Support provided to someone other than Customer or Customer's technical or administrative contact. Prior to requesting support services from RUNCENTRAL, Customer or Customer's technical contact agrees to ask RUNCENTRAL's Technical Support personnel if the requested support services qualify as Technical Support.

Technical Support hours are from 9:00 AM through 5:00 PM EST each day, except on nationally observed holidays, Christmas Eve, during departmental meetings, or when no, or limited support hours may be provided, of which Customer will be notified in advance. Technical Support hours are subject to change.

**3. Equipment and Utilities.** Customer shall provide its own computer and telecommunications equipment necessary to access the Service. Customer shall provide RUNCENTRAL read and write access to Subscriber's equipment. Customer is solely responsible for all local, toll, and long-distance telephone charges for connecting to the Service. RUNCENTRAL shall have no responsibility for any charges or tariffs related to any Customer telephone connection or on-line Services of any entity accessed by or for Customer.

**4. Required Equipment.** Customer shall be solely responsible for the full cost of all required equipment, software and configuration as well as any additional equipment Customer wishes to utilize. RUNCENTRAL shall have no obligation or liability in connection with any equipment not purchased through RUNCENTRAL and configured by RUNCENTRAL, or for any abuse or misuse of any equipment by any party other than RUNCENTRAL. RUNCENTRAL shall pass through to Customer any warranties from the manufacturers of equipment purchased through RUNCENTRAL and installed at Customer's premises. RUNCENTRAL shall have no obligation to repair or maintain any equipment at Customer's premises, and Customer shall be responsible for seeking warranty and other Services directly from the manufacturer.

**5. Term.** Services provided by RUNCENTRAL are annual based, unless otherwise specified on the Order Form or Invoice. Term shall renew on a yearly basis from the service start date, unless Customer notifies RUNCENTRAL in writing within thirty (30) days of existing term. This Agreement may be revoked by RUNCENTRAL in accordance with the terms herein at any time prior to the Effective Date of Service Order or first invoice for services..

**6. Termination by RUNCENTRAL.** RUNCENTRAL, in its sole business judgment, may terminate this Agreement immediately and without prior notice or immediately suspend Customer's access to the Service upon any breach of either this Agreement or RUNCENTRAL's Acceptable Use Policy (available on the RUNCENTRAL web site) by Customer, including, but not limited to, (a) refusal or failure to pay for Service or (b) by sole judgment of RUNCENTRAL that Customer may be performing activities harmful to RUNCENTRAL or its other Customers, employees, vendors, business relationships or other users of the Internet, including but not limited to, spamming; harassment; falsifying information; defamation; violating a third party's privacy; infringing a third party's intellectual property rights; or hacking or other effort to gain unauthorized access to any server, directory, or account information. RUNCENTRAL may also terminate this Agreement without cause at any time upon thirty (30) days prior Notice.

Unauthorized use of the RUNCENTRAL Services in connection with the transmission of unsolicited bulk e-mail ("SPAM"), including the transmission of counterfeit e-mail, may result in civil and criminal penalties against the sender, including those provided by the Computer Fraud and Abuse Act (18 U.S.C. § 1030 et seq.) RUNCENTRAL's response to a first spamming offense is to either terminate the account immediately or advise and educate the Customer through an e-mail warning and/or phone call, in RUNCENTRAL's sole discretion. A minimum \$100 (One Hundred U.S. Dollars) per hour spam handling fee will be charged to Customer's account for all valid complaints, as determined by the RUNCENTRAL Abuse Team.

**7. Termination by Customer.** Customer may terminate this Agreement upon sixty (60) days prior notice and full payment of all subscription fees through the end of the notice period. Term accounts may only be cancelled by paying a cancellation fee equal to seventy-five percent (75%) of the remaining contract balance and by making payment of any outstanding telecommunications charges related to the establishment, maintenance and cancellation of Service to the Customer. Notwithstanding anything to the contrary in this Agreement, if RUNCENTRAL breaches any material term of this Agreement and such breach continues for fifteen (15) business days after Customer has notified RUNCENTRAL, you may immediately terminate this Agreement.

**8. Data.** Customer understands and agrees the Internet is a conglomeration of networks and servers operated by distinct entities having no business or legal relationship to RUNCENTRAL. RUNCENTRAL has no input whatsoever as to the content of Internet data accessed via the Service. Customer is solely responsible for any value or reliance it places on information obtained via the Internet or the Service. **INFORMATION DERIVED AS A RESULT OF THIS AGREEMENT IS PROVIDED "AS IS" AND AT CUSTOMER'S OWN RISK.**

**9. Illegality/Adult Content Policy.** RUNCENTRAL neither sanctions nor permits hosted site content or the transmission of data that contains illegal or obscene material or fosters or promotes illegal activity. RUNCENTRAL reserves the right to immediately suspend or terminate any site or transmission that violates this policy, without prior notice. In the event of such termination, Customer agrees that the unused portion of any fees Customer may have paid for any Services rendered to Customer by RUNCENTRAL are an appropriate recompense to RUNCENTRAL for the time required to respond to and address issues created by Customer's illegal or obscene site/content, and Customer agrees not to seek recovery of those fees. Further, should Customer violate this policy, RUNCENTRAL will actively assist and cooperate with law enforcement agencies and government authorities in collecting and tendering information about Customer, Customer's site, the illegal or obscene content, and those persons that may have inappropriately accessed, acquired, or used the illegal or obscene content.

**10. Limited Warranty/Security.** RUNCENTRAL warrants only that it shall, subject to the terms and conditions of this Agreement, provide Customer the Service. **CUSTOMER AGREES THAT THE SERVICE IS BEING PROVIDED "AS AVAILABLE" AND "AS IS," WITH ALL FAULTS ACCEPTED. RUNCENTRAL MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, RELATIVE TO THIS AGREEMENT AND THE SERVICES DERIVED THEREUNDER AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AGAINST INFRINGEMENT. RUNCENTRAL FURTHER DISCLAIMS ANY WARRANTY OR REPRESENTATION AS TO THE INTERNET AND INFORMATION DERIVED THEREFROM. RUNCENTRAL DOES NOT WARRANT THAT THE SERVICE OR THE CONTENT WILL BE UNINTERRUPTED, ERROR-FREE, OR FREE FROM VIRUSES OR OTHER HARMFUL CONTENT AND ACTIVITY. IT IS THE CUSTOMER'S SOLE RESPONSIBILITY TO PERFORM ANTI-VIRUS SCANS, SECURE THE CONTENT OF HOSTED SITES AGAINST HACKERS AND OTHER SECURITY INTRUSIONS (INCLUDING PROTECTION OF CREDIT CARD OR PERSONAL INFORMATION BELONGING TO CUSTOMER'S CUSTOMERS), AND. OTHERWISE MONITOR WHAT MAY BE HARMFUL OR OFFENSIVE CONTENT ON YOUR SITES OR RUNNING THROUGH YOUR CONNECTION TO THE INTERNET. YOU MUST DETERMINE THE SUITABILITY OF THE RUNCENTRAL SERVICES FOR THE AFOREMENTIONED TASKS, GIVEN YOUR PARTICULAR USE OF THE INTERNET. IF THE SERVICES, AS PROVISIONED, DO NOT ENABLE YOU TO FULFILL THESE RESPONSIBILITIES, IT IS YOUR RESPONSIBILITY TO SECURE PRODUCTS OR SERVICES, AT YOUR EXPENSE, THAT PERMIT YOU TO MEET THESE SECURITY OBLIGATIONS.**

**11. Limitation of Liability.** Each party specifically agrees that, in no event, shall either party's liability as a result of this Agreement and the provision of Service hereunder, exceed Customer's monthly fee for any single month during which any claim of liability arose or the amount paid for any term Agreement. Neither party shall have liability whatsoever for any indirect, special, incidental, consequential or punitive damages of any kind, including but not limited to, lost revenue and lost profit.

**12. Compliance and Indemnification.** Customer agrees to use the Service in compliance with all applicable laws, and to host files or content, if at all, only with the consent of the copyright, trademark, domain name, or patent owner. Customer shall be charged for all costs incurred by RUNCENTRAL, including reasonable attorney fees, for any arising out of any act or omission of Customer under this Agreement or its use of the Service. RUNCENTRAL specifically agrees to defend, indemnify, and hold harmless Customer, its officers, and employees from any claim, loss, or damage, including costs and reasonable attorney fees, arising out of any act or omission of RUNCENTRAL under this Agreement or its use of the Service.

**13. Personal Files/E-Mail Inbox.** RUNCENTRAL is not responsible for back ups of Customer's personal files or other information. RUNCENTRAL reserves the right to delete Customer information and files upon termination of the Service. Any IP addresses assigned to Customer are considered loaned by RUNCENTRAL and will revert back to RUNCENTRAL after cessation of the Service. E-mail inboxes have size limits set by RUNCENTRAL. Once that size limit is reached or exceeded, Customer will receive notification, and no more email will be delivered to that inbox until the size of the inbox is reduced by Customer to below the limit for that account.

**14. Privacy.** Privacy issues are governed by RUNCENTRAL's Privacy Policy, and that document should be consulted for any questions you may have about how RUNCENTRAL uses your Customer information. You are required to develop and post a privacy policy on your web sites to the extent you gather any personal information from your customers or from visitors to your site.

**15. Governing Law and Venue.** This Agreement shall be construed under the laws of the State of Florida. Federal and state Florida courts shall have jurisdiction and venue over this Agreement and the parties, and the exclusive venue for all litigation hereunder shall be commenced and maintained in Florida.

**16. Notice.** Notice to RUNCENTRAL shall be in writing and delivered by hand, e-mail, facsimile, or, if sent by certified mail, return receipt requested, or a nationally recognized overnight delivery service that keep records of deliveries and attempted deliveries (such as FedEx). It is imperative that RUNCENTRAL be able to contact Customer at all times. Customer must promptly advise RUNCENTRAL of any changes to his, her or its contact information, including mailing and e-mail addresses and phone number. Failure to do so constitutes grounds for immediate termination; moreover, any notices from RUNCENTRAL to Customer sent to Customer's last known e-mail address as provided by Customer to RUNCENTRAL shall be deemed effective even if Customer has failed to provide updated information to RUNCENTRAL.

**17. Payment/Taxes.** Customer shall pay RUNCENTRAL for all charges listed on RUNCENTRAL's invoice, including all shipping and handling charges and other charges incidental to the provisioning of the Services. Unless otherwise stated on the face hereof, all payments shall be due upon receipt of invoice. On any amounts not paid when due, Subscriber agrees to pay interest at the rate of 1.5% per month (18% per year) or, if such rate is in excess of the rate allowed by law, then Subscriber agrees to pay the highest rate allowed by law. In addition, Subscriber agrees to pay all costs of collection, including costs of litigation and reasonable attorneys' fees. Subscriber agrees to execute financing statements and other instruments at RUNCENTRAL's request. A \$25.00 (Twenty U.S. Dollars) collection fee will be charged for all dishonored checks. Any tax liability arising from Customer's use of the Service (other than taxes on RUNCENTRAL income) will be Customer's responsibility. Customer will pay all sales and use taxes relating to the Service, as well as all duties or levies on Products and Services.

**(a) Payment Terms.** Unless otherwise subscribed or agreed, payment of the selected Service is due monthly on the first day of each calendar month for the Service to be rendered during the upcoming month. RUNCENTRAL reserves the right to adjust its fees for Service hereunder at any time in the event RUNCENTRAL experiences a rate increase from its telecommunications supplier. However, if Customer has signed a term agreement, RUNCENTRAL's pricing will remain constant for the agreed-to term.

RUNCENTRAL is not responsible for the pricing of any phone company service fees whether billed directly to Customer by the phone company or through RUNCENTRAL on behalf of the phone company. AUTHORIZED CHARGES TO CREDIT CARDS SHALL BE MADE IN ADVANCE, ON OR ABOUT THE ANNIVERSARY DATE OF THE SERVICE FOR THE TERM OF THIS AGREEMENT UNTIL TERMINATED AS PROVIDED HEREIN. A fee of \$25 (Fifteen U.S. Dollars) will be assessed for the following reasons: (1) late payment, (2) payment with insufficient funds, (3) denied or invalid credit card number, (4) rejected ACH payment. A fee of \$20 or 10% whichever is greater will be assessed for the following reasons: (1) late payment or (2) reconnection of services after disconnection for non-payment. Interest charges of 1.5% per month will be assessed to any invoices over 30 days past due from due date on invoice. Payment is late after the tenth (10th) calendar day following the due date of the invoice. RUNCENTRAL may change any fee, rate, or plan upon thirty (30) days' notice. Refunds, if any, from termination or cancellation of term or pre-paid accounts are only available as if the Customer were a month-to-month Customer, and will not be based on the discount the Customer may have received for prepaying the account.

**(b) Payment Method.** CUSTOMER HEREBY AUTHORIZES CHARGES TO BE MADE IN ADVANCE TO THE IDENTIFIED CREDIT CARD EACH MONTH FOR THE DURATION OF THIS AGREEMENT IN THE AMOUNT OF THE SELECTED SERVICE SET FORTH BELOW OR AS CHANGED BY RUNCENTRAL AFTER NOTICE TO CUSTOMER. Payment may be made by wire transfer, check or purchase order only by key accounts and only upon prior authorization by RUNCENTRAL. Customer additionally authorizes periodic verification of credit worthiness. RUNCENTRAL, in its sole discretion and judgment, may discontinue credit at any time without notice.

**18. Force Majeure.** RUNCENTRAL shall not be liable for any delay in performance directly or indirectly caused by or resulting from acts of God, or any third party telecommunications or Internet connectivity providers, fire, flood, accident, riot, war, government intervention, embargoes, strikes, labor difficulties, equipment failure, late delivery by suppliers or other difficulties which are beyond the reasonable control of RUNCENTRAL.

**19. Waiver; Severability.** No waiver by either party of any breach by the other party of any provision of this Agreement shall be deemed or construed to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself. If any provision of this Agreement is stricken as unenforceable, the rest of the Agreement shall remain in full force and effect.

**20. Successors and Assigns.** This Agreement is not assignable or delegable in whole or in part by Customer without the prior express written consent of RUNCENTRAL. This Agreement shall be binding upon the heirs and successors of the parties hereto, the assigns of RUNCENTRAL, and permitted assigns of Customer. This Agreement is assignable by RUNCENTRAL provided RUNCENTRAL gives Customer written notice of such an assignment and the assigning party(ies) is/are capable of performing all of RUNCENTRAL's obligations hereunder.

**21. No Resale.** The Service provided hereunder is limited to Customer and may not be resold in any manner whatsoever unless Customer selects a reseller plan and RUNCENTRAL provides written acceptance of Customer's selection of a reseller plan.

**22. Modification or Amendment to Agreement.** This Agreement may be amended or modified from time to time upon Notice to Customer in RUNCENTRAL's sole discretion. This Agreement shall not be supplemented or modified by any course of dealing or other trade usage.

**23. Entire Agreement.** These terms and conditions constitute the entire Agreement with regard to the subject matter hereof and expressly supersede and replace any prior or contemporaneous agreements, written or oral, relating to this Agreement. This Agreement may be amended by RUNCENTRAL at any time without notice, so please check back frequently to review changes. Any changes or amendments to this Agreement shall be set forth at [www.RunCentral.com](http://www.RunCentral.com). This Agreement may not be amended by Customer unless the amendment is approved by both parties in writing.