

Premier

Campground Management

SERVICE AGREEMENT

BY CLICKING THE "LOGIN" BUTTON, YOU AGREE TO FOLLOW AND BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND, IN SUCH EVENT, "YOU" AND "YOUR" AS USED IN THIS AGREEMENT SHALL REFER TO SUCH ENTITY, IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND, IN SUCH EVENT, "YOU" AND "YOUR" AS USED IN THIS AGREEMENT TO ALL THE TERMS AND CONDITIONS IN THIS AGREEMENT, YOU MUST NOT CLICK THE "LOGIN" BUTTON AND MAY NOT USE THE SERVICES.

Service Agreement

- Definitions:** In these terms and conditions:
 - Agreement** means this Service Agreement
 - Customer Information** means the customer name, email address and any other contact information submitted by or on behalf of a customer in the course of Registration;
 - Commencement Date** means the date that the Customer completes Registration, following successful completion of Registration as confirmed by the Supplier;
 - Confidential Information** means any proprietary information, know-how and data disclosed or made available by one party to the other party but does not include any information which (a) is in the public domain without any breach of the Agreement; (b) on receipt by the other party is already known by that party; (c) is at any time after the date of receipt by the other party, received in good faith by that party from a third party; (d) required by law to be disclosed by the other party;
 - Core Functionality** means the ability to create and manage reservations through use of the Service;
 - Data** means the Customer's data that is entered by the Customer and processed in the course of provision of the Service;
 - Intellectual Property** includes all copyright, trademarks, designs, patents, domain names, concepts, know-how, trade secrets, logos and all other similar property and rights whether registered or unregistered;
 - Permitted Users or Users** means, unless specified otherwise on the Website, employees, directors or contractors of the Customer;
 - Registration** means registration on the Website or through other means for the Customer to receive the Service;
 - Relevant Pricing** means the pricing specified on the Website for provision of the Service
 - Service** means the Supplier's owned, fully hosted, hospitality management platform under the name "Premier Campground Management" provided by the Supplier from the Website, as modified from time to time by the Supplier;
 - Supplier, "We", "Us" or "Our"** means Stainless Software, Inc.;
 - Systems** means, as the context permits, the software used by the Supplier to provide the Service and/or the equipment on which that software is installed or used to host the Website (whether this is the Supplier's software or equipment or is third party software or equipment);
 - Tier 1 Incident** means a fault in the Service that prevents use of entirety of Service by all Users;
 - Tier 2 Incident** means a fault in the Service that substantially impedes Core Functionality by all Users or has a substantial impact on Customer's ability to conduct business;

Tier 3 Incident means a fault, design flaw, misconfiguration or missing feature that has a material impact on Customer's business or User's efficiency;

Website means www.premiercampground.com;

Working Day means a day that is not a Saturday, Sunday or public holiday in the United States of America.

2 Terms and conditions

2.1 The Customer accepts the terms and conditions in effect at the time of supply of the Service. It is the Customer's responsibility to check the Website and the terms and conditions on each occasion you use the Service. The Supplier may amend or replace these terms and conditions at any time on one month's written notification to the Customer which may be given via the Website. The Customer's continued use of the Service confirms the Customer's acceptance to be bound by the latest terms and conditions. Any additional or different terms that the Customer may stipulate or state in any communication with the Supplier will not be binding on the Supplier or included in the Agreement unless expressly agreed upon in writing by the Supplier.

3 Charges and payment

3.1 The Customer will pay the Relevant Pricing for the Service on a monthly basis. All payments must be made in full without deduction or set-off within 15 days of receipt of invoice from Supplier.

3.2 All applicable value added taxes will be charged and payable in addition to the Relevant Pricing.

3.3 If any amount is not paid by the due date

- (a) those charges may accrue late interest at the rate of 15% on the outstanding balance per month or the maximum rate permitted by law, whichever is lower and/or
- (b) the Supplier may suspend provision of Service until the Supplier receives payment in full of all outstanding amounts.

3.4 The Supplier will not exercise the rights under Section 3.3 above if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

3.5 The Relevant Pricing may be changed by the Supplier on the Supplier giving at least 6 months written notice (by email) to the Customer of the new charges that will apply.

4 Term

4.1 The Agreement will commence on the Commencement Date and may be terminated by the Customer at any time through written notice of cancellation to Supplier with the termination taking effect at the end of the month in which the Supplier confirms receipt of the Customer's cancellation request.

5 Provision of Service

5.1 The Supplier will provide the Service to the Customer in accordance with the Agreement. The Service is provided to the Customer on a non-exclusive basis and is the Customer's right to use the Service is not transferable. The Supplier will provide log on details to the Customer to enable the Customer to access and use the Service.

5.2 The Supplier will provide phone and email support:

- (a) at any time (24x7) for Tier 1 Incidents (as classified by Supplier)
- (b) between the hours of 7:00AM – 7:00PM Central Standard Time for matters involving Tier 2 Incidents
- (c) between the hours of 8:00AM – 5:00PM Central Standard Time on Working Days for matters involving Tier 3 Incidents.

5.3 Provision of the Service is subject to the terms and conditions of the Agreement including without limitation clause 5.4.

5.4 The Customer must not, nor may the Customer permit any other person to do any of the following, or attempt to do so:

- (a) copy, alter, modify, reverse assemble, reverse compile, reverse engineer or enhance the Systems; or
- (b) permit or enable users other than Permitted Users to access or use the Service;
- (c) provide the Service to any users through operation of a bureau or like service; or
- (d) resell, rent, lease, transfer, sublicense or otherwise transfer rights to use the Service; or
- (e) use the Service in any way that could damage or interfere with the Systems in any way;
- (f) use the Service otherwise than in the manner in which the Service is designed to be used;
- (g) use the Service in any way (whether by transmitting or inputting any files or other material or otherwise) that could interrupt, damage or otherwise interfere with use of the Service by any other customers;
- (h) do any act which would or might invalidate or be inconsistent with the Supplier's Intellectual Property rights.

5.5 The Customer must notify the Supplier of any actual, threatened or suspected infringement of any Intellectual Property right and of any claim by any third party that any use of the Service infringes any rights of any other person, as soon as that infringement or claim comes to the Customer's notice. The Customer must (at the Supplier's expense) do all such things as may reasonably be required by the Supplier to assist the Supplier in pursuing or defending any proceedings in relation to any such infringement or claim.

5.6 The Customer indemnifies the Supplier against any loss, costs, expenses, demands or liability whether direct, indirect or otherwise, and whether arising in contract, tort (including negligence), equity or otherwise, arising out of a claim by a third party alleging infringement of that third party's Intellectual Property rights if such claim arises from infringement, suspected infringement or alleged infringement due to:

- (a) use of the Service in a manner or for a purpose or in combination with any other service or product not reasonably contemplated or authorized by the Supplier; or
- (b) a breach by the Customer of clause 5.4.

- 5.7 The availability of the Service is dependent on factors outside of the Supplier's control including without limitation the availability of telecommunications networks and as such the Supplier cannot and does not warrant that the Service will be continuously available or available without interruption. The Supplier's commitment to Service availability is described below:
- (a) the Supplier intends that the Service is available 24 hours a day seven days a week. Exceptions to this may occur for any planned maintenance, emergency maintenance or unplanned outages;
 - (b) Planned maintenance: Planned maintenance may take place on Tuesdays during the hours 8:00PM – 12:00AM or at times notified on the Website;
 - (c) Emergency maintenance and unplanned outages – where emergency maintenance is necessary or where unplanned outages occur, this will be notified on the Website as soon as possible following this coming to the Supplier's attention.
- 5.8 Details of the Supplier's disaster recovery plan (or hosting provider's disaster recovery plan where applicable) are available from the Supplier on request.

6 Data

- 6.1 The Customer warrants that the Customer has the right and authority to deal with the Data in the manner contemplated by the Agreement. The Customer is responsible for all Data entry requirements and, except as expressly provided otherwise in the Agreement, for all aspects of the Customer's access and use of the Service.
- 6.2 Nothing in the Agreement transfers ownership of the Data to the Supplier.
- 6.3 All Data is available to the Customer:
- (a) for the term of the Agreement, by logging into the Website;
 - (b) on request to the Supplier at any time during the term of the Agreement and for a period up to 6 months following expiration or termination of the Agreement.

7 Intellectual Property

- 7.1 All Intellectual Property in:
- (a) the Service and the Website; and
 - (b) the processes, methodology and know-how used by the Supplier in its performance of the Agreement, is the property of the Supplier and nothing in the Agreement operates to change that ownership.

8 Confidential Information

- 8.1 The parties recognize and acknowledge the confidential nature of the Confidential Information.
- 8.2 Neither party may use or disclose any Confidential Information other than:
- (a) to its employees, directors or contractors to the extent necessary in the performance of the Agreement; or
 - (b) with the express prior written consent of the other party; or
 - (c) to its professional advisers.

9 Warranties

- 9.1 Each party warrants to the other that it has authority to enter into and perform and the ability to perform its obligations under the Agreement.
- 9.2 Except as expressly provided in these terms and conditions, all warranties, terms and conditions (including, without limitation, warranties and conditions as to fitness for purpose and merchantability), whether express or implied by statute, common law or otherwise, are excluded to the extent permitted by law.

10 Termination

- 10.1 Either party may terminate the Agreement immediately if the other party:
- (a) breaches any of its obligations under the Agreement and fails to remedy the breach within 10 days of receiving notice requiring the breach to be remedied; or
 - (b) becomes insolvent or goes into liquidation or has a receiver or statutory manager appointed over its assets or ceases to carry on business or makes any arrangement with its creditors.
- 10.2 On termination of the Agreement:
- (a) all amounts due to the Supplier will become immediately due and payable;
 - (b) the Supplier will cease to provide the Service to the Customer, and the Customer will cease to have any entitlement to use the Service;
 - (c) the provisions of the Agreement that are by their nature intended to survive termination will remain in full force.

11 Liability

- 11.1 The Supplier will only be liable for losses (excluding loss of business or profits) which flow directly from a breach of the Agreement up to a maximum of the amount paid by the Customer to the Supplier in the three months preceding the event giving rise to the claim under the Agreement.
- 11.2 The Customer indemnifies the Supplier against any losses, costs (including legal costs on a solicitor and own Customer basis), expenses, demands or liability whether direct, indirect, consequential or otherwise, and whether arising in contract, tort (including negligence), equity or otherwise, arising (whether directly or indirectly) out of a claim by a third party in respect of the Customer's use of the Service or the Website, provided that this indemnity does not apply to the extent that the claim has arisen as a direct result of the Supplier's negligence.

12 Dispute resolution

- 12.1 In the event of any dispute arising between the parties in relation to this Agreement, no party may commence any proceedings relating to the dispute (except where the party seeks urgent interlocutory relief) unless that party has complied with the procedures in this clause 12.
- 12.2 The party initiating the dispute (“the first party”) must provide written notice of the dispute to the other party (“the other party”) and nominate in that notice the first party’s representative for the negotiations. The other party must within fourteen days of receipt of the notice, give written notice to the first party naming its representative for the negotiations (“Other Party’s Notice”). Each nominated representative will have authority to settle or resolve the dispute. The parties will co-operate with each other and endeavor to resolve the dispute through discussion and negotiation.
- 12.3 If the dispute is not resolved within one month following the date of the Other Party’s Notice (or such longer period as may be agreed upon by the parties in writing), either party may utilize any other legal remedies available to it in seeking to resolve the dispute.

13 Consumer guarantees

- 13.1 The Customer acknowledges that where it is acquiring the Service for the purposes of a business, to the extent permitted by the relevant legislation, any statutory consumer guarantees or legislation that are intended to apply to non-business consumers only will not apply.

14 General

- 14.1 Entire agreement: The Agreement constitutes the complete and exclusive statement of the agreement between the parties, superseding all proposals or prior agreements, oral or written, and all other communications between the parties relating to the subject matter of the Agreement.
- 14.2 Waiver: No exercise or failure to exercise or delay in exercising any right or remedy by a party will constitute a waiver by that party of that or any other right or remedy available to it.
- 14.3 Partial invalidity: If any provision of the Agreement or its application to any party or circumstance is or becomes invalid or unenforceable to any extent, the remainder of the Agreement and its application will not be affected and will remain enforceable to the greatest extent permitted by law.
- 14.4 Independent contractor: The Supplier is an independent contractor to the Customer and is in all respects independent of the Customer. Nothing in the Agreement constitutes either party a partner, agent, employee or joint venturer of the other.
- 14.5 Suspension: The Supplier may suspend performance of its obligations under the Agreement for so long as it is unable to perform for reasons outside of its control.
- 14.6 Assignment: The Customer is not permitted to assign its rights under the Agreement.

15 Notices

- 15.1 Except where the Agreement anticipates that notifications will be made via the Website, notices from the Supplier to the Customer under the Agreement will be sent to the Customer at the Customer’s contact details specified in the Customer Information. The Customer may notify the Supplier of a change to the contact details specified in the Customer Information, on seven days’ notice in writing to the Supplier. Notices from the Customer to the Supplier under the Agreement must be sent to the Supplier at the Supplier’s contact details included on the Website.
- 15.2 Notices sent by email will be deemed received on sending, provided that the sender does not receive an automatic delivery failure notification. Notices sent by mail will be deemed received on the third day following posting.

- 16 Governing law and jurisdiction:** The Agreement is governed by the laws of the State of Colorado. The parties hereby submit to the non-exclusive jurisdiction of the courts of the State of Colorado, USA.