

STUDIOPLUS MAIL SERVICE TERMS OF USE

StudioPlus Software, LLC (“StudioPlus”), alone and with third party vendors such as SendGrid, Inc. (“SendGrid”) provides proprietary services for the development, transmission and management of email messages (“Mail Service”). By accessing and continuing use of this Service, You (“You” or “User”) agree to each of the terms and conditions set forth herein (“User Agreement”). This User agreement is additional to all other user agreements and Terms of Use set forth by StudioPlus, and shall complement such other terms of use and, in the event of conflict, the terms of this User Agreement shall govern interactions with the Mail Service. This User Agreement shall incorporate by reference the StudioPlus Privacy Statement (“Privacy Statement”). This User Agreement, together with applicable additional terms and conditions, are referred to as this “Agreement.” You must be at least 18 years of age to use the Mail Service, this Web site and all associated services. By using the Mail Service, our Web site and associated services, you certify that you are at least 18 years of age and that you agree to be bound by these terms and conditions of use and you certify that your use is not in violation of any applicable Federal, State, or local law or ordinance. If you do not agree to be bound by these terms of use or if you are not at least 18 years of age, please immediately exit the site and/or discontinue use of the Mail Service.

In consideration of StudioPlus providing you with the site services, you agree to comply with these Terms of Use for the site services (the "TOU"). If you do not agree to the terms and conditions contained in the TOU, we do not consent to provide you with access to the site services or the Mail Service.

You are granted a revocable license to use the Mail Services according to the terms and conditions contained herein.

StudioPlus reserves the right to modify this Agreement at any time without prior notice. Your use of the Site following any such modification constitutes your agreement to follow and be bound by the Agreement as modified. The last date these Terms of Use were revised is set forth below.

1. **Master Agreement.** You agree to abide by all terms of Master OEM Agreements between StudioPlus and its third-party vendors, which shall include SendGrid, and shall not place StudioPlus in default or in breach of such OEM Agreement by any means. This TOU incorporates by reference all terms and provisions of such agreement, which may be modified from time to time with or without notice. StudioPlus may discontinue, modify, or limit such service s without advance notice to You at its own discretion.
2. **Third-Party Services.** The services provided to You under this Agreement include certain services developed, provided or maintained by third-party service providers of StudioPlus (“**Third Party Providers**”). Access to or use of any of those services, including, without limitation, the Mail Service (“**Third Party Services**”) by You is subject to a separate agreement that You may enter into (or may have entered into) relating to those Third Party Services (each, a “**Third Party Service Agreement**”). The terms of any Third Party Service Agreement will apply to the applicable Third Party

Services provided under that Third Party Service Agreement in addition to the terms of this Agreement. Except as set forth in this Agreement, the terms of any Third Party Service Agreement will control in the event of a conflict between the terms of this Agreement and that Third Party Service Agreement. All other Third Party Services will be subject to the terms of this Agreement. Each Third Party Provider retains all right, title and interest in and to all Third Party Services and all software, hardware or other technology used to provide those services, and any additions, improvements, updates, and modifications thereto. Each Third Party Provider will be a beneficiary of the terms of this Agreement as to the Third Party Services provided by the Third Party Provider and will have all rights necessary to enforce this Agreement against You in the case of any breach of those terms.

3. **Warranties.** You represent, warrant, and covenant that: (1) You have the legal right and authority to enter into this Agreement; (2) You have the legal right and authority to perform its obligations under this Agreement and to grant the rights and licenses described in this Agreement and in any applicable additional agreement You enter into in connection with any of the services provided under this Agreement; (3) all Content is in compliance with the terms of this Agreement; and (4) You will access and use the services provided under this Agreement in compliance with the terms of this Agreement.
4. **Disclaimer.** THE SOLE WARRANTIES REGARDING THE SERVICES PROVIDED UNDER THIS AGREEMENT ARE THOSE EXPRESS WARRANTIES (IF ANY) PROVIDED TO YOU BY STUDIOPLUS AND THIRD PARTIES (INCLUDING SENDGRID) UNDER THIS AGREEMENT. ALL THIRD PARTY SERVICES ARE PROVIDED BY EACH THIRD PARTY PROVIDER STRICTLY “AS IS” AND “AS AVAILABLE” AND ALL THIRD PARTY PROVIDERS EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS OF ANY KIND WITH REGARD TO ALL THIRD PARTY SERVICES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE OR NON-INFRINGEMENT. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY STUDIOPLUS, SENDGRID OR ANY THIRD PARTY PROVIDER WILL CREATE ANY WARRANTIES BY OR ON BEHALF OF THIRD PARTY PROVIDER.
5. **Indemnification.** You agree to and hereby do indemnify, defend, and hold harmless StudioPlus or its Third Party Providers and their respective affiliates, employees, agents, contractors, assigns, licensees, and successors in interest (“**Indemnified Parties**”) from any and all claims, losses, liabilities, damages, fees, expenses, and costs (including attorneys' fees, court costs, damage awards, and settlement amounts) that result from or relate to any claim or allegation against any Indemnified Party arising from Your accessing or using the services provided under this Agreement (including any Third Party Services) or from any email or other communication generated or sent through such services or any content contained therein, whether or not in breach of this Agreement.

6. **Limitation on Liability.** YOU AGREE THAT RESPONSIBILITY AND LIABILITY FOR THE SERVICES PROVIDED UNDER THIS AGREEMENT IS STRICTLY WITH STUDIOPLUS. NO THIRD PARTY PROVIDER WILL HAVE ANY LIABILITY UNDER THIS AGREEMENT OR OTHERWISE IN CONNECTION WITH ANY SERVICES PROVIDED UNDER THIS AGREEMENT (INCLUDING THIRD PARTY SERVICES), INCLUDING, WITHOUT LIMITATION, FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR OTHER FORM DAMAGES, HOWEVER CAUSED, UNDER ANY THEORY OF LIABILITY, WHETHER IN CONTRACT, STRICT LIABILITY OR TORT (INCLUDING NEGLIGENCE OR OTHERWISE), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LOSS OF DATA, OPPORTUNITY, REVENUES OR PROFITS, BUSINESS INTERRUPTION, OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES. IN JURISDICTIONS WHERE THE FOREGOING LIMITATION OF LIABILITY IS NOT PERMITTED, THE LIABILITY OF ANY THIRD PARTY PROVIDER WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

YOU FURTHER ACKNOWLEDGE THAT THE LIABILITY OF STUDIOPLUS IS LIMITED AS PROVIDED IN OTHER TERMS OF USE AND USER AGREEMENTS BETWEEN YOU AND STUDIOPLUS.

7. **Data Privacy.** StudioPlus or its Third Party Providers will have the right to collect, extract, compile, synthesize, and analyze data and information resulting from or relating to the use or operation of the services under this Agreement (“**Service Data**”). Any Service Data collected by StudioPlus or Third Party Providers will be owned by the party collecting the Service Data and may be used by that party for any lawful business purpose without a duty of accounting to You subject to the then current privacy policy applicable to the services under this Agreement. You consent to the use and disclosure of personally identifiable and other data and information as described in this Agreement and in the then-current privacy policy applicable to the services provided under this Agreement (“**Privacy Policy**”).
8. **Content.** You will be responsible for all data, information and other content (“**Content**”) provided by You in connection with the services provided under this Agreement. You will not provide and will not permit any third party to provide or to use the services provided under this Agreement to provide, any Content that: (a) infringes, misappropriates or violates any intellectual property or other rights of any third-party; (b) is defamatory, harmful to minors, obscene or child pornographic; (c) contains any viruses or programming routines intended to damage the services or any software, hardware or other technology used to provide the services or surreptitiously intercept or expropriate any data or information; or (d) is false, misleading or inaccurate. Neither StudioPlus nor its Third Party Providers will be responsible or liable for any deletion, correction, destruction, damage, loss or failure to store or back-up any Content. StudioPlus or its Third Party Providers may take remedial action if any Content violates this Section,

however StudioPlus or its Third Party Providers are under no obligation to review any Content for accuracy or potential liability.

9. **License Grant.** You grant to StudioPlus or its Third Party Providers all necessary rights and licenses in and to all Content necessary for StudioPlus or its Third Party Providers to provide the services under this Agreement. You will maintain an adequate back-up of all Content and StudioPlus, SendGrid and their Third Party Providers will not be responsible or liable for any deletion, correction, destruction, damage, loss or failure to store or back-up any of any Content. You represent and warrant that You have all necessary right, title, interest and consent necessary to allow StudioPlus, SendGrid and their Third Party Providers to use all Content as set forth in this Agreement and as otherwise necessary to provide the services under this Agreement.
10. **Payment.** You agree to promptly make all necessary payments for such Mail Service. Failure to make prompt payment may give rise to the ability to suspend, cancel, revoke, features or other aspects of the Mail Service.
11. **Limitation.** You acknowledge that StudioPlus may suspend, limit, cancel or revoke your right to use the Mail Services for any reason or no reason, which may include any breach or alleged breach of this User Agreement or any other Terms of Use.
12. **Enforcement/ Choice of Law/ Choice of Forum.** If any part of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, it will not impact any other provision of this Agreement, all of which will remain in full force and effect. Any and all disputes relating to this Agreement, your use of the Site, any other StudioPlus web site, the Service, or the Content are governed by, and will be interpreted in accordance with, the laws of the State of Minnesota, without regard to any conflict of laws provisions.
13. **DMCA.** The Digital Millennium Copyright Act of 1998 (the "DMCA") provides recourse for copyright owners who believe that material appearing on the Internet infringes their rights under U.S. copyright law. If you believe in good faith that materials hosted by StudioPlus Software, LLC or one of its subsidiaries infringe your copyright, you (or your agent) may send us a notice requesting that the material be removed, or access to it blocked. If you believe in good faith that a notice of copyright infringement has been wrongly filed against you, the DMCA permits you to send us a counter-notice. Notices and counter-notices must meet the then-current statutory requirements imposed by the DMCA; see www.loc.gov/copyright/ for details. Notices and counter-notices with respect to our web sites should be sent to StudioPlus Software, LLC, 600 South Main Street, Cambridge, MN 55008 (763) 552-5500 Phone (763) 552-5502 Fax Info@StudioPlusSoftware.com. We suggest that you consult your legal advisor before filing a notice or counter-notice. Also, be aware that there can be penalties for false claims under the DMCA. Nothing contained herein shall be construed as legal advice and it is not intended as legal advice.

14. **Use.** Use of the Mail Service is directed solely to individuals residing in the United States or the United Kingdom or applicable U.K. Commonwealth member. StudioPlus makes no representation that materials provided through the Service are appropriate or available for use in other locations. Those who choose to access the Service from other locations do so on their own initiative and at their own risk, and are responsible for compliance with local laws, if and to the extent applicable. StudioPlus reserves the right to limit the availability of the Mail Service to any person, geographic area, or jurisdiction we so desire, at any time and in our sole discretion, and to limit the quantities of any such service or product that we provide.

Last Revised: February 1, 2015