

## CUSTOMER TERMS AND CONDITIONS

**EZ Merchant Solutions (EZms), EZ Order Manager (EZom), EZ Shopping Cart (EZcart) and EZ Merchant Hosting (EZhost)** are services and product offerings provided by **1<sup>st</sup> Source IT, LLC**, an Oregon Limited Liability Corporation hereafter referred to as **Company**. References to **1<sup>st</sup> Source IT** or **Company** below refer to any service provided by **1<sup>st</sup> Source IT, LLC** including the above software services or any consulting (custom programming or advice) provided by **1<sup>st</sup> Source IT..**

Any user of any service offered by **Company** will hereafter be referred to as **Client**.

**PLEASE NOTE: Company** is a service provider and does not have control over any content or data provided by a **Client**. **Company** is not a publisher or editor of content. content (data) is the sole responsibility of the **Client**. Additionally, **Client** assumes all liability for conformance with current or future laws governing content or data within the control of **Client**. This includes any applicable laws governing the retention of customer credit card or other personal information related to customers of **Client**. Additionally, **Client** agrees to conform to all laws and regulations regarding spam email practices and shall not use the system or services in any manner that might jeopardize access/use by other users of the system.

Before your transaction can be completed, you must read and agree to these terms and conditions. By applying for access and or services from this website you are agreeing to these terms and conditions, and are agreeing to be legally bound by them. This agreement is subject to change by **Company** at any time. Changes are effective when posted on this site without notice upon **Client**.

### 1. Definitions

- a. "Member" or "Membership" means the subscriber or user of a valid username and password for the site during the term of membership. This includes users created by **Company** and users created by anyone with administrative rights within a **Client** company.
- b. "Site" means this website, for which you are purchasing a right to use the provided services.
- c. "Services" means any service provided by **Company** to **Client** whether those "Services" be software, consultation or any other form of paid or free services.
- d. "Subscriber" means the end-user/Consumer of the services of this site, most commonly the primary administrator established by the **Client**;
- e. "Company Administrator" is the single user who is designated as the primary contact for the **Client**.

### 2. Description of Services

- a. **Company** provides software services and consulting services to its clients. Software products are available for lease or for sale. Consulting services are an agreement for best-effort work provided by **Company** to **Client**. **Client** is responsible for final qualification and acceptance of any work product delivered to **Client** for their use.
- b. **Company** will provide one primary user for **Client** to access the site and its contents. The **Client** can create additional users within the software applications. The **Client** can also assign “rights” to those users. Users created by the **Client** are the sole responsibility of the **Client**.

### 3. Billing

- a. 1<sup>st</sup> **Source IT** will appear on your credit card/ bank statement for all charges made. If multiple venues are joined utilizing any payment method, your statement will list each individual purchase comprising the transaction.
- b. An electronic receipt will be emailed to **Client** at the company email address provided on the site.

### 4. Payment and Fees

- a. The subscription fee has been set out in the purchase agreement. You are responsible for payment of the fee. Payments are non-refundable.
- b. Payment for services will be automatic. **Client** is required to keep a valid credit card on the system for recurring billing by **Company**. **Company** agrees to protect the privacy and security of all credit card information. Credit card information is used for billing purposes only for services rendered.
- c. Depending on the subscription (or sale) you have selected, subscription fees may be automatically renewed at the end of the original term selected, for a similar period of time, unless notice is received from the **Client** at least seven (7) days prior to renewal. Any trial or special offer memberships shall renew at the renewal rate in effect at the time of the original purchase of the trial or special offer period.
- d. Unless and until this agreement is cancelled in accordance with the terms hereof, **Client** hereby authorizes **Company** to charge **Client**'s chosen payment method to pay for the ongoing cost of subscription.
- e. **Client** will receive an email receipt at the email address used by **Client** at the time of registration or what is currently identified as the “Company Email” within the administrative area of the application(s). Subscriber may, at any time, request an accounting of charges made for the life of their subscription.
- f. At any time, and without cause, subscription to the service may be terminated by either party, upon notification via electronic or conventional mail, in the manner set forth below. Termination shall not negate the **Client** responsibility to adhere to the subscription originally purchased. Termination of an active subscription shall be at the sole discretion of **Company**.

- g. If you are taking advantage of a “Free” trial period through a credit card, **Company** will request, and your bank shall immediately put a “Reserved Funds” hold on your credit card for the amount of the subscription plan you have selected. If the free trial is cancelled within the time frame allowed by the agreement, the “reserved Funds” hold will be removed from your credit card within a commercially reasonable time, usually 7 to 10 business days from the date of notice.

## 5. Refunds

- a. Except as otherwise provided herein, subscription fees are NON-REFUNDABLE and will expire at the end of the subscription period.

## 6. Authorization for Use

- a. **Client** is granted a nonexclusive, nontransferable, limited license to the use of the services/software provided by **Company**. Only the **Client** and users they specifically delegate are authorized to access the information, services and software available on this site. Any unauthorized access or other use of this site will constitute a breach of this agreement and subject the **Client** to immediate termination. In the event of such termination, any fees for products will be non-refundable.

## 7. Limited Warranty

- a. EXCEPT AS OTHERWISE PROVIDED HEREIN, THE ONLINE SERVICES/PRODUCTS ARE PROVIDED ON AN “AS IS”, “AS AVAILABLE” BASIS AND THE PROVIDER EXPRESSLY DISCLAIMS ALL WARRANTIES, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## 8. Limitation of Liability

- a. **Company** shall not be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from:
  - i. Any errors in or omission from the services/products available therefrom;
  - ii. The unavailability or interruption of the service/products or any features thereof;
  - iii. Your use of the services/products (regardless of whether you received any assistance from **Company** in using the services/products;
  - iv. Your use of any equipment in connection with the services/products, or
  - v. Any delay or failure in performance beyond the reasonable control of **Company**.
- b. **Company** SHALL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ATTORNEYS’ FEES) IN ANY WAY DUE TO, RESULTING FROM, OR ARISING IN CONNECTION WITH THE SERVICES/ PRODUCTS, OR THE FAILURE OF **Company** TO PERFORM ITS OBLIGATIONS, REGARDLESS OF ANY NEGLIGENCE OF **Company**.

## 9. Miscellaneous

- a. These Terms and Conditions, including any Additional Terms, may be changed from time to time as described below, or by written agreement. Your subscription may be terminated immediately upon notice to **Company** if any change is unacceptable.
- b. Continued use of the site/services/product following any change constitutes acceptance of the change.
- c. Except as otherwise provided herein, all notices and other communications hereunder shall be in writing or displayed electronically by **Company**. Notices shall be deemed to have been properly given on the date deposited in the U.S. mails, certified mail return receipt requested, if mailed; on the date first made available, if displayed on the site; or, on the date received if delivered in any other manner.
- d. Failure to enforce any provision hereof shall not constitute or be construed as a waiver of such provision or of the right to enforce it at a later time.
- e. The subscribing organization or individual may not assign its rights or delegate its duties under this agreement without prior written consent of **Company**.
- f. The Terms and Condition shall be governed by and construed in accordance with the laws of the State of Oregon, United States of America.
- g. If any provision of this agreement is found to be void or otherwise unenforceable, the balance of the remaining provisions of this agreement shall remain in full force and effect.