Terms and Conditions for Liquid Web Hosting Technology Services

The following terms and conditions ("Terms of Service") apply to the provision of Liquid Web LLC, (Liquid Web) Hosting Technology Services ("Services") and to the Customer who orders Liquid Web Services ("Customer")

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1. ORDERING SERVICES

1.1 For purposes of these Terms of Service an order means (i) the online order that you submit or accept for the Services, (ii) any other written order (either in electronic or paper form) provided to you by Liquid Web for acceptance that describes the Services you are purchasing and the price of such Services, signed by Customer, either manually or electronically, and/or, (iii) your use of the Services, ("Order").

1.2 Customer's use of the Services is governed by these Terms of Service, which are incorporated by reference in the terms of your Order.

1.3 Customer's use of the Services includes a representation that the individual placing the Order for Customer has the legal authority to enter into contractual commitments and make purchases for the Customer.

1.4 Liquid Web's obligation to begin providing Services is contingent on Customer's satisfying Liquid Web's credit approval criteria. Further, Liquid Web may, in its sole discretion, accept or reject any Order Customer submits.

1.5 Customer warrants and represents that the Order is placed on behalf of a business and not a consumer.

1.6 The provision of the Services described in an Order constitutes Liquid Web's acceptance of the Order.

2. LIQUID WEB OBLIGATIONS

Liquid Web will provide Services to Customer subject to these Terms of Service.

3. CUSTOMER OBLIGATIONS

3.1 Customer agrees: (i) comply with applicable law and these Terms of Service, (ii) pay the fees for the Services when due, (iii) cooperate with Liquid Web's investigation of service outages and any suspected breach of these Terms of Service, and (iv) ensure your customer account information as it appears in the online control panel is true, accurate, and complete.

3.2 Customer may resell the Services, however, Customer remains responsible for use of the Services by any third party to the same extent as if Customer were using the Services. If Customer installs third party software on the server that is hosted by Liquid Web, or Liquid Web installs the third party software for or at the request of Customer, Customer agrees to the licensing costs at the time of installation and is responsible for any increase in the third party licensing costs thereafter. Customer is solely responsible for (i) obtaining all required licenses, (ii) complying with all applicable licensing requirements set forth by the software manufacturer, and (iii) acceptance of the software manufacturer's end user license agreement and/or terms and conditions. Customer agrees to indemnify, defend, and hold harmless Liquid Web from and against any claims based on Customer's failure to comply with the terms set forth in this section.

3.3 Customer is solely responsible for the security and content of all Customer data stored in Liquid Web's hosted environment and all such data is and at all times shall, remain Customer's exclusive property ("Customer Data").

3.4 Customer is solely responsible for: (i) determining the suitability of the Services in light of the type of Customer Data stored by you or your end-user(s); (ii) the use of Liquid Web's hosted environment tool and/or the Services by any of your employees or other user(s) who, either with or without Customer's authorization, gain access to the hosted environment; and (iii) taking all commercially reasonable steps to mitigate the risks inherent in transmitting Customer Data to and from and while stored on the hosted environment using the Services, including any Customer Data loss or corruption.

3.5 Customer shall encrypt at the application level all data, considered sensitive data, which must be treated as confidential under state or federal law or under Customer's contractual obligations to others. Sensitive data includes, but is not limited to, Social Security Numbers, financial account numbers, driver's license numbers, state identification numbers, Protected Health Information (as that term is defined in Title II, Subtitle F of the Health Insurance Portability and Accountability Act, as amended (HIPAA) and regulations promulgated there under) and Nonpublic Personal Information (as that term is defined in Financial Services Modernization Act of 1999 (Gramm-Leach-Bliley) and regulations promulgated there under).

3.6 Customer shall be responsible for maintaining all backups for all Customer Data on servers not covered by Liquid Web's Guardian Bare Metal Managed Backup ("Guardian"). In the event Liquid Web provides backup assistance on servers not covered by Guardian, it is provided, without additional charge, as a courtesy ("Courtesy Support") to Customer. Liquid Web has no liability for any lost or corrupted Customer Data resulting from the provision of Courtesy Support.

3.7 Customer is responsible for selecting and securing the appropriate authentication procedures to allow access to Customer's account. Customer is not authorized to provide account access, passwords, or passphrases for Liquid technical support to any third party.

3.8 Customer shall only use or allow the use of the Services in compliance with the terms of paragraph 4, (Acceptable Use) of these Terms of Service.

3.9 Customer shall promptly notify Liquid Web of any data breach or unauthorized access to Liquid Web's network or servers and accounts. Customer will take all commercially reasonable steps to cooperate with Liquid Web's investigation and resolution of the reported breach or unauthorized access.

4. ACCEPTABLE USE

4.1 Customer shall use the Services in compliance with all applicable state, federal, or international laws, statutes or codes, specifically including data protection and privacy laws, as well as laws relating to unsolicited commercial electronic messages.

4.2 Customer is responsible for all acts and omissions of its users in connection with receipt or use of the Services. Customer agrees, and will ensure its users agree, to act responsibly and not use the Services for any illegal or unauthorized purpose including, but not limited to:

a. Hacking, phishing, spamming, identity theft, financial fraud, e-mail spoofing, virus distribution, network attacks, pirating software, harassment, using malware, spyware, copyrighted infringement under the Digital Millennium Copyright Act ("DMCA"), trademark infringement, sharing illegal software, and any unauthorized use of images, internet accounts or computers or any activity that would violate the Controlling the Assault of Non-Solicited Pornography And Marketing (CAN-SPAM) Act of 2003.

b. For the purposes of Acceptable Use, the term Spamming includes, but is not limited to: (i) sending unsolicited outbound bulk email regardless of the content; (ii) Junk mail; (iii) unsolicited commercial email; (iv) unsolicited instant messaging; (v) unsolicited mobile phone messaging advertising; (vi) email address cultivating, or any unauthorized collecting of email addresses without prior notification of the email address owner and (vii) mailing lists without closed-loop ("Confirmed Opt-in"), subscription confirmation without retained messages and/or unsubscribe links.

c. Unauthorized access to or use of data, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorization of the owner of the system or network.

d. Monitoring data or traffic on any network or system without the express authorization of the owner of the system or network.

e. Intentionally or recklessly introducing any virus or other contaminating code into the Liquid Web hosted environment.

f. Collecting or using information, including email addresses, screen names or other identifiers, by deceit, (such as, phishing, Internet scamming, password robbery, spidering, and harvesting).

g. Use of any false, misleading, or deceptive TCP-IP packet header information in an email or a newsgroup posting.

h. Distributing software that covertly gathers or transmits information about a user.

i. Any activity intended to withhold or cloak identity or contact information, including the omission, deletion, and forgery or misreporting of any transmission or identification information, such as return mailing and IP addresses.

j. Interference with service to any user of the Liquid Web hosted environment including, without limitation, mail bombing, flooding, or deliberate attempts to overload a system and broadcast attacks.

k. Any action that directly or indirectly results in any of Liquid Web's IP space being listed on any abuse database (i.e. Spamhaus).

l. Conducting any gambling activity in breach of the terms paragraph 4.1.

m. Distribution or any other use of copyrighted material not owned by Customer or Customer's end-user.

n. Any action that is otherwise illegal or solicits conduct that is illegal under laws applicable to you or to Liquid Web.

o. Content that incites violence, threatens violence, is excessively violent, or contains harassing content or hate speech.

p. Any action that results in Customer's official listing on the Register of Known Spam Operations (ROKSO) database maintained at https://www.spamhaus.org/rokso/

q. Use of public proxies, Internet Relay Chat (IRC), or any application layer protocol when utilized to mask activities defined as malicious within these terms.

4.3 Customer may not use any shared system provided by Liquid Web in a way that unnecessarily interferes with the normal operation of the shared system, or that consumes a disproportionate share of the resources of the system. Note: the use of more than 10,000 inodes per GB on any Cloud Sites account may result in a warning, and if no action is taken to reduce the excessive use of inodes, your account may be suspended.

4.4 Customer agrees that we may quarantine or delete any data stored on a shared system if the data is infected with a virus, or is otherwise corrupted, and has the potential to infect or corrupt the system or other customers' data that is stored on the same system.

5. TERMINATION FOR VIOLATION OF ACCEPTABLE USE

5.1 Liquid Web has the right to investigate potential violations of paragraph 4. If Liquid Web determines that a breach has occurred, then Liquid Web may, in its sole discretion:

a. Restrict Customer's and its users' access to the Services;

b. Remove or require removal of any offending Content;

c. Terminate this Agreement for cause;

d. Exercise any other rights and remedies it may have, at law or in equity.

5.2 Except in an emergency or as may otherwise be required by law, before undertaking the actions in paragraph 5.1, Liquid Web will attempt to notify Customer by any reasonably practical means under the circumstances, such as, without limitation, by telephone or e-mail. Customer will promptly notify Liquid Web of any event or circumstance related to this Agreement, Customer's or any user's use of the Services, or content of which Customer becomes aware, that could lead to a claim or demand against Liquid Web, and Customer will provide all relevant information relating to such event or circumstance to Liquid Web at Liquid Web's request.

6. TERM AND RENEWAL

6.1 Term. The initial term for each Order begins on the effective date stated in an Order or, if no effective date is stated, the initial term shall be begin on the date Liquid Web makes the Services

available for Customer's use ("Effective Date") and continues for the period stated in the Order. If no period is stated in the Order, then the initial term shall be one (1) month. Upon expiration of the initial term, the Order will automatically renew for successive renewal terms of one (1) month each, unless and until either party gives the other a written notice of non-renewal prior to the expiration of the initial term (or then-current renewal term, as applicable, following the process in 6.2 below.

6.2 Cancellation/Non-Renewal. Customer may give notice of non-renewal or cancellation by logging in to their account on manage.liquidweb.com and submitting a cancellation ticket. No other form of cancellation will be effective and the month-to-month agreement for services is automatically renewed each month until such notice of cancellation ticket is provided.

7. BILLING AND ACCOUNT SET-UP

7.1 Liquid Web will charge Customer and Customer agrees to pay when due the fees for the Services in accordance with its Order. Unless other payment methods have been approved, Liquid Web will charge Customer's credit card monthly, without invoice, beginning on the Effective Date and continuing on the same date each successive month until the end of the term. Customer shall pay all applicable taxes arising from Customer's use of Services or Customer's payment of amounts due to Liquid Web under the Order.6.2 Cancellation/Non-Renewal. Customer may give notice of non-renewal or cancellation by logging in to their account on manage.liquidweb.com and submitting a cancellation ticket. No other form of cancellation will be effective and the month-to-month agreement for services is automatically renewed each month until such notice of cancellation ticket is provided.

7.2 Liquid Web may increase fees for the Services provided under an Order upon thirty days advance written notice as follows:

a. For Services provided on a month-to-month term, Liquid Web may, increase fees effective the first day of the next month following the notice period.

b. For services provided over a term greater than one month, Liquid Web may, increase fees for the services provided under an Order as of the first day of the next renewal term beginning more than thirty (30) days from the date following the notice period.

7.3 Liquid Web may suspend all Services (including services provided under multiple Orders or other contracts with Customer) if charges to Customer's credit card or other payment facility are rejected, or Customer fails to make payment by an agreed upon alternative payment method. Liquid Web may charge interest on overdue amounts at 1.5% per month (or the maximum legal rate if it is less than 1.5%).

7.4 In the event Liquid Web brings a legal action or engages a collection agency to collect Customer's unpaid balances, Customer will be liable for payment of all reasonable costs of collection, including legal fees and court costs. Any "credit" that liquid Web may owe Customer, such as a credit for failure to meet a Service Level Agreement, will be applied to fees due from you for Services, and will not be paid to you as a refund.

7.5 Refunds and Guarantees:

    a. Refunds for prepaid Services will be given for full months only in accordance with the terms of the applicable Service Level Agreement.

    b. To be eligible for a refund or claim a SLA guarantee, Notice of cancellation must be given before the month in question begins. Setup fees are not refundable. The cost of domain will be deducted from the money refunded if the user's domain was registered via Liquid Web's domain.

7.6 If there is a dispute with respect to any portion of an invoice, Customer shall pay the undisputed portion of the fees when due and provide written details specifying the basis of any disputed portion of the invoice.

7.7 Charges that are not disputed within sixty (60) days of the date charged are conclusively deemed accurate.

7.8 Customer authorizes Liquid Web to obtain a credit report on Customer at any time during the term of an Order.

8. SUSPENSION OF SERVICES

8.1 Liquid Web may suspend some or all of the Services without liability to Customer if Customer (i) fails to pay the applicable fees for the Services when due (ii) the Services are being used, have been used, or will, with commercially reasonable certainty, be used in breach of these Terms of Service; (iii) Customer fails to cooperate with an investigation of any suspected breach of the Acceptable Use provisions of these Terms of Service; (iv) Liquid Web reasonably believes that the Services have been accessed or utilized in any way by a third party without Customer's consent, or (v) suspension of services is reasonably necessary to protect Liquid Web's hosting environment and/or its customers.

8.2 Liquid Web will provide Customer reasonable advance notice of a suspension based on a violation of these Terms of Service and a chance to cure the violation on which the suspension is based, unless Liquid Web determines, in its reasonable commercial judgment, that an immediate suspension is necessary to protect Liquid Web's network and its customers' data from an imminent, significant operational, network integrity or security risk.

8.3 Suspensions based on Customer's breach of these Terms of Service will not relieve Customer's obligation to pay for the suspended Services during the period of suspension. Any suspension imposed under this paragraph will be terminated upon Customer's cure of the breach causing the suspension. In the event the Customer is unable to cure the breach within fifteen (15) days from the date on which the breach occurred, the suspension may be treated as a termination for Cause. If Customer's Services are compromised, then Customer must resolve the cause of the compromise before Liquid Web will reinstate service.

8.4 In the case that Service is suspended for Customer's breach of these Terms of Service Liquid Web shall have the right to deny access to, and/or, destroy data stored on the compromised server or account. Liquid Web may at its own discretion allow access to a suspended account.

9. TERMINATION FOR CAUSE

9.1 Customer may, upon written notice, terminate an Order for breach of these Terms of Service if Liquid Web (i) materially fails to provide the Services as agreed and does not remedy that failure within fifteen (15) days of your written notice describing the failure; (ii) materially fails to meet any other obligation stated in the Order and does not remedy that failure within thirty (30) days of Customer's written notice describing the failure.

9.2 Liquid Web may, upon written notice, terminate an Order if Customer (i) provided materially inaccurate or incomplete information of the purpose of obtaining the Services; (ii) Customer did not have the legal right or authority to enter the Order; (iii) Customer fails to make payment of any invoiced overdue amount within five (5) Business Days of our written notice of delinquency; (iv) Customer made payment arrangements via credit card or other third party, and the third party refuses to honor or reverses Liquid Web's charges; (v) Customer is in breach of the Acceptable Use provisions of these Terms of Service and (v) Customer fails to comply with any other obligation stated in the applicable Order and does not remedy the failure within fifteen (15) days of Liquid Web's written notice to Customer describing the failure.

9.3 Either party may terminate an Order with immediate effect on written notice if the other party (or we reasonably believe that the other party) (i) is unable to pay its debts; (ii) enters into compulsory or voluntary liquidation; (iii) convenes a meeting of its creditors; (iv) has a receiver or manager or an administrator appointed (or an application is made to the court for the same); or (v) ceases for any reason to carry on business or takes or suffers any similar action which means that it may be unable to pay its debts (each an "Insolvency Event"). Notwithstanding anything to the contrary in the Order, the fees for the Services shall become due immediately upon the occurrence of an Insolvency Event.

10. HOSTING SERVICES/TECHNICAL SUPPORT/LIMITED WARRANTY

10.1 Liquid Web will provide all Services in compliance with the Dedicated/VPS Service Level Agreement found at: https://www.liquidweb.com/about/policies/dedicated-sla.html

10.2 Liquid Web technical support services are provided via phone, email and LiveChat. Liquid Web has four categories of technical support (i) Fully Managed, (ii) Core Managed, (iii) Self-Managed and (iv) Courtesy Support the features of each category of support are described at: https://www.liquidweb.com/support/.

10.3 Liquid Web technical support is available only to its Customers.

10.4 Liquid Web has no support obligation to any other party.

10.5 Dedicated Server Support: Liquid Web provides Basic technical support and maintenance of dedicated servers at the rate specified in Customer's Order. Additional technical support will be provided, as agreed upon between the parties from time to time.

10.6 Any services that we are not contractually obligated to provide but that we may perform for you at your request and without any additional charge are provided on an AS IS basis.

10.7 Liquid Web has no obligation to provide security other than as expressly stated in the agreement or order.

10.8 Some of the Services are designed to help you comply with various regulatory requirements that may be applicable to you. However, you are responsible for understanding the legal and regulatory requirements applicable to you and your use of the Services, and for selecting and using those Services in a manner that complies with your obligations under the Agreement and the applicable legal and regulatory requirements.

10.9 Liquid Web personnel may from time to time recommend third party software or other products and services for your consideration and may also make available to you third-party products or services, including third-party applications through deployment or implementation tools. Liquid Web makes no representation or warranty whatsoever regarding products and services that are not purchased from Liquid Web or produced/manufactured by Liquid Web. Your use of any such products and services is governed by the terms of your agreement with the provider of those products and services.

10.10 Liquid Web may periodically run security scans on Fully-Managed servers. A specific user account called 'lwadmin' will be present on all Fully-Managed servers for the purpose of security scans and other management functions.

11. PRODUCT SALES TERMS

11.1 Customer acknowledges that Liquid Web is reselling (and not itself providing) products purchased by customer including, without limitation, hardware, software and/or software licenses ("Product(s)").

11.2 Liquid Web shall pass through to Customer, the manufacturer's warranties for each Product and agrees to facilitate utilization of manufacturer's product return policies. In no event will Liquid Web provide product return or warranty coverage beyond that provided by the manufacturer. Products that are accepted for return are subject to the manufacturer's applicable restocking fee(s).

11.3 Customer acknowledges the terms and conditions governing the use of such Products shall be solely between Customer and the manufacturer.

11.4 Customer will not use the Products sold by Liquid Web for use in life support, life sustaining, nuclear or other applications in which failure of such Products could reasonably be expected to result in personal injury, loss of life or catastrophic property damage. Customer agrees that Liquid Web is not liable, in whole or in part, for any claim or damage arising from use of such Products.

11.5 All shipments of Products by Liquid Web to Customer are FOB point of shipment. Insurance coverage, transportation costs and all other expenses applicable to shipment from Liquid Web to Customer's identified point of delivery will be the responsibility of the Customer.

11.6 Risk of loss will pass to the Customer upon delivery of the Products to the common carrier (regardless of who pays such common carrier) or the Customer's representative at Liquid Web's point of shipment.

11.7 Customer grants Liquid Web a security interest in and to the Products as security for payment in full of the purchase price. Customer authorizes Liquid Web to file and/or record any documents it deems necessary to perfect this security interest.

11.8 Customer will obtain all licenses, permits and approvals for the use of the Services or Products, which may be required by any governmental agency, foreign or domestic, having jurisdiction over the transaction.

12. BANDWIDTH PACKAGES

Bandwidth usage for bundled bandwidth packages, for Internet data transfer, will be calculated based upon outgoing bandwidth transfer. Incoming data transfer will not be counted towards your bundled bandwidth usage. Incoming data transfer is free of charge. If your actual data transfer usage exceeds the amount of your bandwidth package you will be charged a bandwidth overage fee in addition to your Bundled Bandwidth Charge. The bandwidth overage fee will be specified in your order.

13. WARRANTY DISCLAIMERS

13.1 LIQUID WEB DISCLAIMS, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL WARRANTIES, INCLUDING IMPLIED TERMS CONDITIONS OR WARRANTIES RELATING TO SATISFACTORY QUALITY OR FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

13.2 ALL SERVICES PROVIDED BY LIQUID WEB ARE ON AN "AS IS" BASIS AND LIQUID WEB MAKES NO WARRANTIES OF ANY KIND WITH REGARD TO THE PROVISION OF SUCH SERVICES.

14. CONTENT DELIVERY NETWORK

Bandwidth usage for bundled bandwidth packages, for Internet data transfer, will be calculated based upon outgoing bandwidth transfer. Incoming data transfer will not be counted towards your bundled bandwidth usage. Incoming data transfer is free of charge. If your actual data transfer usage exceeds the amount of your bandwidth package you will be charged a bandwidth overage fee in addition to your Bundled Bandwidth Charge. The bandwidth overage fee will be specified in your order.

15. SCHEDULED MAINTENANCE AND DOWNTIME

15.1 Liquid Web will use its commercially reasonable efforts to provide services 24 hours a day, seven days a week.

15.2 Customer acknowledges that from time to time the services may be inaccessible or inoperable for various reasons, including:

a. Periodic maintenance procedures or upgrades ("Scheduled Downtime")

b. Service malfunctions, and causes beyond Liquid Web's control or which are not reasonably foreseeable by Liquid Web, including the interruption or failure of telecommunications or digital transmission links.

c. Hostile network attacks, or network congestion or other failures.

15.3 Liquid Web is not responsible for any downtime caused by conditions specified in 15.2 or due to Customer's actions that breach any term of this Order.

15.4 Liquid Web will provide a minimum of 48 hours advance notice to the Customer for non-emergency maintenance or Scheduled Downtime, and will use commercially reasonable efforts to minimize any other disruption, inaccessibility and/or inoperability of its web servers.

16. INDEMNITY

16.1 Customer agrees to indemnify and hold Liquid Web, and each of its directors, officers, employees, shareholders and agents (each an "Indemnified Party") harmless from any and all damages, liabilities, fines, penalties, losses and/or claims of whatsoever kind or nature, arising from the Customer's use of Liquid Web's hosted environment or the Services.

16.2 Liquid Web may from time to time, at the request of the Customer, be enlisted to perform server administration tasks on Customer hardware, which is co-located at a Liquid Web facility ("Remote Hands Service"). Customer agrees and holds Liquid Web harmless against any damage caused to Customer in the performance of Remote Hands Service.

17. EXPORT

Customer represents and warrants:

a. That Customer is not located in or a national of any country that is embargoed or restricted under export regulations or are otherwise a person or entity to which Liquid Web is legally prohibited from providing the Services.

b. Customer will not possess, use, import, export or resell (and shall not permit the possession, use, importation, exportation, or resale of) the Services or any Information or technical data provided by Liquid Web under these Terms of Service or any Order or agreement in which they are incorporated in any manner which would cause Liquid Web to breach any applicable export control laws, rules, or regulations.

c. Customer represents, and warrants without limitation, that it will not provide or facilitate administrative access to or permit use of the Services by any persons (including any natural person, government or private entity or other form of body corporate) that is located in or is a

national of any country that is embargoed or highly restricted under applicable export laws, rules or regulations.

18. PROMOTIONAL USE

Customer grants Liquid Web a non-transferable, non-exclusive license to utilize Customer trademarks and logos for Liquid Web promotional materials.

19. OWNERSHIP OF SERVICES/INTELLECTUAL PROPERTY

19.1 No work or professional services performed and/or provided by Liquid Web under this Order shall be deemed to be "Work For Hire" and shall remain at all times the sole property of Liquid Web. For so long as Customer is not in default on any obligation under these Terms and Conditions, Liquid Web grants Customer a non-exclusive, non-transferable license to use the work product of such services. Such license terminates upon the termination of the applicable Order or agreement pursuant to which they were performed.

19.2 All software that is provided to Customer is subject to these Terms of Service and any Order or agreement in which they are incorporated including software that we may authorize you to install on devices located outside of our data center. Customer shall not use any software provided by Liquid Web after the expiration or termination of these Terms of Service or any Order or agreement in which they are incorporated.

19.3 Customer shall not remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on any software we provide you.

19.4 Unless permitted by the terms of an open source software license, Customer may not reverse engineer, decompile or disassemble any software we provide for Customer's use except and to the extent that Customer is expressly permitted by applicable law to do so and then following at a minimum of ten (10) days' advance written notice to Liquid Web. Any additional restrictions, which may apply to software we utilize in the performance of the Services, will be specified in the applicable Order.

19.5 Where specifically prohibited, Customer shall not mix software license ownership when utilizing Liquid Web services. In such cases, where the Customer provides all licensed products, including the OS, all licenses must be provided by the Customer and may not be mixed with Liquid Web licensed products. Requirements vary by software vendor.

20. LIMITATION OF DAMAGES AND LIABILITY

EXCEPT AS OTHERWISE PROVIDED IN AN APPLICABLE SERVICE LEVEL AGREEMENT, LIQUID WEB'S LIABILITY TO CUSTOMER SHALL NOT EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCT OR SERVICE THAT IS THE BASIS FOR THE CLAIM. FOR REMOTE MANAGEMENT OF CUSTOMER'S ENVIRONMENT AND/OR LIQUID WEB CLOUD SERVICES, THE TOTAL LIABILITY OF LIQUID WEB FOR THE PERFORMANCE OR NONPERFORMANCE OF ITS OBLIGATIONS SHALL NOT EXCEED AN AMOUNT EQUAL TO THE MOST

RECENT SIX MONTH'S BASE CHARGE FOR THE SERVICE (S) THAT IS THE BASIS FOR THE PARTICULAR CLAIM. LIQUID WEB WILL NOT, IN ANY EVENT, BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, LOST OR DAMAGED DATA, AND LOSS OF BUSINESS OPPORTUNITY), HOWEVER CAUSED, ARISING OUT OF THE USE OF OR INABILITY TO USE THE PRODUCT OR SERVICE, OR IN ANY WAY CONNECTED TO THESE TERMS OF SALE, EVEN IF LIQUID WEB HAS BEEN ADVISED OF SUCH DAMAGES AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY. THE FOREGOING LIMITATION OF LIABILITY WILL APPLY WHETHER ANY CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE, INFRINGEMENT OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY, CONTRIBUTION, OR OTHERWISE.

21. NO WAIVER

The failure of either party to insist upon strict performance of any of the provisions of these Terms of Service will not be deemed a waiver of any breach or default. The remedies provided to Liquid Web hereunder are not a waiver of the remedies of Liquid Web under applicable law.

22. LIMITATION OF ACTION

The Customer may bring no action, regardless of form, arising out of or relating to an Order, more than three (3) months from the date on which the cause of action accrues. The parties expressly agree that this part, as to the Customer only, supplants and replaces any and all periods of limitation otherwise provided for by law and applicable hereto. All periods of limitation otherwise applicable to actions by Liquid Web remain as provided by law.

23. DISPUTE RESOLUTION

All disputes between Liquid Web and a Customer shall be determined by a final and binding arbitration conducted by the American Arbitration Association pursuant to its then current commercial arbitration rules. The arbitrator shall decide any dispute in accordance with Michigan law, without the application of choice of law principles. Each party shall bear its own expenses and legal fees for the arbitration. The arbitration shall be conducted in Ingham County, Michigan, unless both parties agree in writing to a different location. The arbitration award is enforceable as a judgment of any court having proper jurisdiction.

24. CONFIDENTIAL INFORMATION

Information designated as confidential by either Liquid Web or Customer, whether before or after the effective date of these Terms of Service shall be held in strict confidence and used only for purposes of these Terms of Service. Except as required by law, no Confidential Information shall be disclosed without the prior written consent of the party designating the information as confidential. If either party is legally required to disclose any confidential information of the other party, the party so required shall

notify the other party immediately and shall cooperate in seeking a reasonable protective order. This Section shall not apply to information, which is (i) in the public domain, (ii) already known to the recipient, (iii) developed independently or (iv) received from a third party without similar restriction and without breach of this or a similar agreement.

25. SEVERABILITY

If any provision of these Terms of Service is unenforceable as a matter of law, all other provisions will remain in effect.

26. EXCUSABLE DELAY

Liquid Web will not be liable for any delay or failure of performance whatsoever due to acts of God, earthquakes, shortage of supplies, transportation difficulties, labor disputes, riots, war, fire, epidemics or other circumstances beyond Liquid Web's control.

27. BINDING TERMS AND CONDITIONS

27.1 These Terms and Conditions are incorporated in Customer's Order by reference to Liquid Web's website https://www.liquidweb.com/about/policies/terms-and-conditions.html. In the event Liquid Web revises the Terms of Service on its website, those revisions will not be effective as to an Order that we accepted prior to the date Liquid Web posted the revision and your Order will continued to be governed by the Terms of Service posted on the effective day of the Order.

27.2 By opening an account, or by the use of any Liquid Web service, the Customer agrees to be bound by these Terms and Conditions.

28. NO PARTNERSHIP

The relationship between the parties is that of independent contractors and not business partners. Neither party is the agent for the other; neither party has the right to bind the other to any agreement with a third party.

29. ASSIGNMENT AND SUBCONTRACTING

Neither party may assign the an Order in whole or in part without the prior written consent of the other party, provided however, Liquid Web may assign an Order in whole or in part to an affiliate with sufficient financial standing in order to meet its obligations under the Order or as part of a bona fide corporate reorganization or a sale of its business, and we may transfer your Confidential Information as part of any such transaction. Liquid Web may use affiliates and third party service providers to perform all or any part of the Services, but Liquid Web remains responsible to you under the Order for Services

performed by its Affiliates and third party service providers to the same extent as if Liquid Web performed the Services.