

WEB LOFT DESIGNS

STANDARD TERMS AND CONDITIONS

October 8, 2018

1. INTRODUCTION

THESE STANDARD TERMS AND CONDITIONS (this “Agreement” and/or these “Terms and Conditions”), as amended from time to time by East Summit, Inc., dba Web Loft Designs, a Texas corporation, its affiliates, predecessors, successors and assigns (the terms “Web Loft,” “us,” “we” and/or “our” shall refer to East Summit), between you (the terms “Customer,” “you” and/or “your” shall refer to the individual, entity or organization that accepts this Agreement) and Web Loft, sets forth the terms and conditions applicable to your purchase and/or use of our products and services (collectively, the “Services”) as further set forth herein or as provided in any Statement of Work between you and Web Loft (each an “SOW”) or other additional agreement you and Web Loft for specific Services from Web Loft . You and Web Loft together may be referred to herein as the “Parties” and each may be referred to herein as a “Party.” This Agreement explains our obligations to you, and your obligations to us in relation to any Services you purchase or otherwise utilize, subject to any SOW or other agreement for specific Services from Web Loft.

You acknowledge that you have read, understand and agree to be bound by all of the Terms and Conditions of this Agreement, as well as all other applicable rules or policies, terms and conditions, or service agreements that are or may be established by Web Loft from time to time and are incorporated herein by reference. Any specific Services from Web Loft, our partners and/or other third parties, may have their own service agreements (including SOWs) or other related terms and conditions (“Additional Agreements”), and it is your obligation to review, accept and abide by those Additional Agreements as well as this Agreement. Each Additional Agreement shall constitute a separate agreement and each Additional Agreement to which Web Loft is a party shall incorporate therein all of the terms and conditions of this Agreement. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of any Additional Agreement, the terms and conditions of such Additional Agreement shall prevail.

2. SERVICES

This Agreement applies to all Services, whether purchased or utilized separately or as part of a complete solution or packaged bundle. Your purchase of the Services, continued use of the Services, and/or continued access to the Services constitutes your acceptance of this Agreement. If you purchase Services that are sold together as a “bundled” package (e.g., you purchase a package that includes both a domain name, website design and development and/or mobile application development or other Services, as opposed to your purchasing such Services separately), termination of any part of the Services will result in the termination of all of such Web Loft Services provided as part of the bundled package. If you contract separately for Services then each separately contracted Services shall separately be governed by this Agreement and termination of any separately contracted Services shall not terminate other separately contracted Services. See Section 4 (Termination) for additional details on this subject.

You acknowledge and agree that some or all of the Services you purchase or receive from us may be provided by one or more vendors, contractors, subcontractors, assigns or affiliates selected by Web Loft in its sole and absolute discretion. As a part of your Services, Web Loft may provide you access to third-party functionality or services, including, but not limited to, applications, widgets, Rich Site Summary (“RSS”), other types of news, event and industry feeds, calculators, recommended copy, forms and templates that are incorporated or offered as a part of one or more of the Services (collectively, “Third-Party Functionality”). You acknowledge and agree that your use of any Third-Party Functionality to which you are provided access as part of any Web Loft Services shall be and will always be in accordance with the terms of any relevant third-party licenses, agreements and/or terms and conditions. Your failure to abide by any such third-party licenses, agreements and/or terms and conditions may result in the immediate termination of your Services provided by Web Loft. You understand and agree that Web Loft does not control such Third-Party Functionality and is therefore not liable to you or any third party for any issues of any kind relating to issues relating to Third- Party Functionality. Web Loft reserves the right, in its sole and absolute discretion, to terminate, suspend, cancel or alter your access to Third-Party Functionality at any time and without notice to you.

3. FEES AND PAYMENTS, TERM & RENEWALS

As consideration for the Services you purchase, order or otherwise utilize, you agree to pay Web Loft all applicable prices and fees as designated in the related order process or Additional Agreements, with such prices and fees subject to change as provided in this Agreement. All prices and fees are due immediately or upon ordering and are non-refundable, except as otherwise expressly provided in this Agreement, the applicable Additional Agreement, as required by applicable law, or as such prices and fees are billed by Web Loft under an invoice or order confirmation for Services issued to a Customer that expressly permits payment as stated in such invoice or order confirmation (generally up to thirty (30) days after Web Loft has sent Customer such invoice or order confirmation, “Net-30 Customers”). Web Loft may require a Customer to successfully complete a credit application prior to such Customer qualifying to become a Net-30 Customer.

All quoted prices and fees exclude all applicable sales tax, use tax, value added tax (“VAT”), and other taxes and government charges, whether federal, state or foreign. You are responsible for payment of all such taxes (other than aggregate gross revenue taxes (e.g. Texas “margin tax”) or income taxes (e.g. U.S. income federal or state income tax) based on Web Loft’s aggregate gross revenue or income), fees, duties and charges on your payment for the purchase of Services arising from any and all fees under this Agreement. Accordingly, you agree to pay all VAT, sales and other taxes (other than taxes based on Web Loft aggregate gross revenue or income) related to Web Loft services or payments made by you hereunder. All payments of prices and fees for Web Loft Services shall be made in U.S. Dollars. If the currency of your bank or credit card account is not in U.S. dollars, you may be charged exchange rate conversion fees by your bank or credit card company. In addition, due to time differences between (i) the time you complete the checkout process; (ii) the time the transaction is processed; and (iii) the time the transaction posts to your bank or credit card, the conversion rates may fluctuate and Web Loft makes no representations or warranties that (a) the amount submitted to your bank or credit card for payment will be the same amount that is posted to your bank or credit card statement or (b) the estimated conversion price will be the same as either the amount processed or the amount posted to your bank or credit card statement, and you agree to waive any and all claims against Web Loft based upon such discrepancies (including any and all claims for a refund based on the foregoing). You acknowledge and agree that you may be charged sales tax, VAT and similar taxes based on your location indicated by your address information provided to Web Loft.

Unless otherwise stipulated in the related invoice or order process, payment for the Services are to be made via a charge to your credit card, charge card, PayPal account or bank account provided to us (the “Account”). You are solely and absolutely responsible for any Account information that you provide to Web Loft and must promptly inform Web Loft of any changes or updates to the method of payment. By contracting for or submitting an order for Services, you authorize Web Loft to charge the order to the Account or to otherwise immediately bill you for the Services in accordance with this Agreement and/or any Additional Agreement. You acknowledge and agree that unless otherwise expressly stipulated in the invoice or order process or otherwise changed afterwards in accordance with the applicable process, all annual, monthly or other recurring fees related to the Services or otherwise referenced in this Agreement are to be recurring transactions that will be billed on an ongoing basis until the Services are terminated in accordance with this Agreement. If you have provided billing information sufficient for automatic billing, then Web Loft will bill you automatically in accordance with the applicable billing frequency. You are obligated to pay for the full amount of the Agreement, even if such full amount is scheduled to be paid in installments. If you elect to pay for the Services in installments, provided such a payment schedule is expressly permitted and accepted by Web Loft, all installments must be received on or before the applicable due date.

Unless otherwise specified herein or in an Additional Agreement, on our website or in the applicable order process, each Web Loft Service provided on a subscription or recurring payment basis (collectively, “Subscription Services”) is for a one-year initial term and renewable thereafter for successive terms. Any Web Loft Subscription Service that provides for a monthly billing cycle may be billed every four (4) weeks. Any renewal of your Subscription Services is subject to our then current Terms and Conditions, including, but not limited to, successful completion of any applicable authentication procedure, and payment of all applicable service prices and fees at the time of renewal, and in the case of domain name registration or re-registration, the domain name registry’s acceptance of your domain name registration or re-registration. Upon prior notice, Web Loft may also charge an “Account Maintenance Fee” to maintain your active account in respect of Subscription Services. This Account Maintenance Fee shall be billed to your account each year, thirty (30) days following the annual anniversary date of your account creation. Except with

respect to Subscription Services to which you subscribe on a monthly (or similar billing cycle) basis, we will endeavor, but are not obligated, to provide you with notice prior to the renewal of your Services at least fifteen (15) days prior to the renewal date.

Pricing for Subscription Services, renewals, and product upgrades and add-ons may vary based upon the date of your purchase. Additional payment terms may apply to the Services you purchase, as set forth in the applicable SOW, supplemental service and product agreements to this Agreement, Additional Agreement, on our website or as otherwise outlined in the applicable order process. Subscription Services to which you subscribe on a monthly or recurring basis automatically renew on a recurring basis until the Agreement is properly terminated in accordance with its terms. We may, at any time, activate the auto-renew service for eligible Services in your account if it is not already activated. Further, we may provide you with an opportunity to opt-in to our automatic renewal process in accordance with the instructions (and subject to your agreement to the terms and conditions pertaining to that process) on our website or in the applicable order process. You agree that if you are enrolled in or otherwise utilizing our auto-renew service, we will attempt to renew your service at some point less than ninety (90) days prior to its expiration without notice to you. Such automatic renewal for your Services, if successful, may be for a shorter term than the term for which you originally purchased your Services, but in no event shall such term be longer than the term then currently in place for the Services. Such automatic renewal for your Subscription Services, if successful, shall be at the then current price for the Services. You further agree that, to turn off the auto-renew service for any of your Subscription Services with Web Loft, you must call our Customer Service, or you may be able to turn off such auto-renew service utilizing the online account manager arrangements, if any, associated with your Services. You acknowledge and agree that the renewal price may be higher or lower than the price you paid for the then current term of the Subscription Services, and that we are authorized to charge your credit card or other payment method on file for the renewal of the Services. In any event, you are solely and absolutely responsible for the credit card or payment information you provide to Web Loft and must promptly inform Web Loft of any changes thereto (e.g., change of expiration date or account number). You acknowledge and agree that Web Loft may extend the expiration date or bill you beyond the cancellation date of your credit card on file with us in order to protect against unwanted expiration of your Services and to allow for the automatic renewal thereof. In addition, you are solely and absolutely responsible for ensuring ant Subscription Services are renewed. Web Loft shall have no liability to you or any third party in connection with the renewal as described herein, including, but not limited to, any failure or errors in renewing Subscription Services whether due to you, us or a third party. In order to process a renewal under our auto-renew service, we may use third-party vendors for the purpose of updating the expiration date and account number of your credit card or other payment method on file. Such third-party vendors maintain relationships with various credit card issuers and may be able to provide us with the updated expiration date and account number for your credit card by comparing the information we have on file with the information the third-party vendor has on file. By selecting our auto-renew service, you acknowledge and agree that we may share your credit card or other payment method information with such third-party vendors for the purpose of obtaining any update to your credit card expiration date, account number or payment account.

In the event that you are not enrolled in auto-renew, or have opted out of auto-renew, and want to renew your Subscription Services, you acknowledge and agree you are responsible for actively renewing your Subscription Services and you further assume all risk and consequences if you wait until the end of the Services term or otherwise to attempt to renew any such Services. If any Subscription Service is not successfully renewed prior to the expiration of its then current term, all your rights to such Service will terminate, and we will have no obligation to allow you to renew a Service once its expiration date has passed. Additionally, for domain name registration services, even if a registry administrator or third-party service provider provides a grace period to Web Loft upon expiration or termination of such Service, you acknowledge and agree that any post-expiration renewal or redemption processes implemented on your behalf are at our sole and absolute discretion, and may be subject to a late fee, reinstatement fee, redemption fee and/or other fee.

Without limiting any of Web Loft's rights hereunder, should any payment owed to Web Loft become delinquent, Web Loft may suspend or cancel your Services; provided, however, related charges that cannot be suspended will continue to accrue. You acknowledge and agree that Web Loft is not responsible whatsoever for any effect the suspension of Services might have. If Web Loft provides any Service discount to you and you default on payments or obligations as outlined herein, Web Loft may rescind all discounts and require full payment for the Services. All sums due and payable that remain unpaid after any applicable cure period herein will accrue interest as a late charge of 1.5% per month or the maximum amount allowed by law, whichever is less. Web Loft further reserves the right to

refer any amounts owed hereunder to a third party for collection in the event of default. In the event your account is sent to collection, you agree to pay all costs of collection, including litigation costs and attorneys' fees. A \$50.00 (Fifty U.S. Dollars) collection fee may be charged for all dishonored checks. Moreover, an additional fee may also be assessed for the following reasons: (i) late payment; (ii) payment with insufficient funds; (iii) denied or invalid credit card number; or (iv) the re-starting or reinstating of Subscription Services terminated for nonpayment. Web Loft will re-start or reinstate any such Service in our sole and absolute discretion and subject to our receipt of the applicable service fee, renewal fee or other fee.

If Customer pays for the Services by credit card or charge card, Customer permanently and irrevocably waives any and all right to enact a "chargeback" (that is, a disputed, reversed or contested charge with the applicable bank, credit card, charge card or other payment method) against these payments for any reason whatsoever against Web Loft. If for any reason Web Loft is unable to charge your Account or other payment method for the full amount owed for the Services provided, or if Web Loft receives notification of a chargeback, reversal, payment dispute or is charged a penalty for any fee it previously charged to your Account or other payment method, you agree that we may pursue all available lawful remedies in order to obtain payment, including, but not limited to, immediate cancellation, without notice to you, of any your Services (including domain names). We also reserve the right to charge you reasonable "administrative fees" or "processing fees" for (i) additional tasks we may perform outside the normal scope of the Services; (ii) additional time and/or costs we may incur in providing the Services, and/or (iii) your noncompliance with this Agreement (as determined by us in our sole and absolute discretion). Typical administrative or processing fee scenarios include, but are not limited to: (i) customer service issues that require additional personnel time or attention; (ii) recouping any and all costs and fees, including the cost of Services, incurred by Web Loft as the results of chargebacks or other payment disputes brought by you, your bank or other payment method processor. These administrative fees or processing fees will be billed to the Account or other payment method you have on file with Web Loft.

In general Web Loft contracts with its Customers on a time and materials basis with a Customer's charges based upon the standard hourly rate of Web Loft's professionals or as otherwise stated in applicable Additional Agreements. UNLESS STATED EXPLICITLY TO THE CONTRARY IN A CUSTOMER'S APPLICABLE ADDITIONAL AGREEMENTS ALL SERVICES PERFORMED BY WEB LOFT ARE ON A TIME AND MATERIALS BASIS AND THE CUSTOMER SHALL BE RESPONSIBLE TO PAY WEB LOFT BASED ON ITS PROFESSIONALS' STANDARD RATE OR, IF STATED THEREIN AS TO ANY PARTICULAR PROFESSIONAL OR TYPE OF PROFESSIONAL, AT THE RATES SET FORTH IN THE CUSTOMER'S APPLICABLE ADDITIONAL AGREEMENTS. We may from time to time, either at a Customer's request or at our own initiative, provide a Customer with an estimate of fees or costs that we reasonably anticipate will be incurred in connection with any particular service or project. It is understood that such estimates, which are predicated on a variety of assumptions, are subject to unforeseen circumstances and are by their nature inexact. No written or oral estimate, either before, at the time of, or following the execution of this Agreement, shall be construed to be a fee cap or fixed fee unless expressly agreed to by us. While you should presume that all time spent attending to your services or project by any of our professionals staff will be billed, we may elect (at your request or on our own initiative) to "write off" or "no charge" some costs, expenses, and fees. Any such write-offs are discretionary and are expressly contingent on there being nor arising any dispute regarding payment of the other amounts owed to us by you, whether such dispute is initiated by you or us. If we must take legal action to collect amounts due from you or if you seek to formally dispute our billings, by initiating mediation, arbitration, litigation, or a fee dispute in any forum, all "write off" or "no charge" costs, expenses, and fees for our services reflected on any statement to you will revert to being fully billed, and be sums owed to us by you, in addition to sums otherwise owed by you to us, whether or not disputed. These provisions are explicitly written to prevent a situation where we reduce your bill by writing off costs, expenses, and fees, and then you seek to reduce the sums owed further by disputing your responsibility to pay the reduced sum.

Web Loft may apply against any amount payable to or on behalf of Customer any amount owed by Customer to Web Loft. Customer shall be deemed to have consented to such application.

CUSTOMER UNDERSTANDS AND AGREES THAT ALL WEB LOFT FEES AND CHARGES ARE NONREFUNDABLE AND THAT WEB LOFT MAY CHANGE ANY PRICE, FEE, RATE OR PLAN AT ANY TIME UPON NOTICE TO CUSTOMER IN ACCORDANCE WITH SECTION 28 (NOTICE) OF THIS AGREEMENT.

4. TERMINATION

Web Loft may terminate this Agreement immediately for any or no reason and without notice to you, subject to any SOW or other Additional Agreement. Without limiting the foregoing, Web Loft reserves the right to suspend or terminate all Services immediately without notice to you if Web Loft determines, in its sole and absolute discretion, that you have failed to comply with your obligations as set forth in this Agreement. In the event of your chargeback by a credit card, charge card or other payment method, or other non-payment by you in connection with your payments of the applicable billing cycle fee, renewal fee or other applicable fee, you acknowledge and agree that all of your Services may be suspended, canceled or terminated, in our sole and absolute discretion and without notice to you.

Unless otherwise stipulated in the related order process, you may terminate Subscription Services by providing Web Loft Notice of termination in accordance with the Notice provisions of this Agreement and other Services in accordance with the termination provisions applicable to those other Services and the Services will terminate as of the end of the applicable, current billing period in respect of Subscription Services or otherwise in accordance with the termination provisions applicable to other Services. You are responsible for all fees incurred up to and including the date of termination and upon termination you may receive a final bill reflecting the balance due for any remaining charges and agrees to pay all such fees incurred by you and/or via your utilization of the Services.

Except as otherwise expressly set forth herein or on our website, Web Loft will cease charging your credit card, if applicable, for any Subscription Service fees as of the expiration of the billing cycle in which the termination is effective. Unless otherwise specified in writing by Web Loft, you will not receive any refund for payments already made by you as of the date of termination, regardless of whether any related Services have been performed, and you may also incur additional fees and/or be obligated to pay us for the balance of your term. If termination of this Agreement is due to your default hereunder, you shall bear all costs of such termination, including any reasonable costs Web Loft incurs in closing your account and you further agree to pay any and all costs incurred by Web Loft in enforcing your compliance with this Section. Upon termination, you must destroy any copy of the materials licensed to you hereunder and referenced herein. You agree that upon termination or discontinuance for any reason, we may delete all information related to you on the Service, if applicable.

B. Termination of Bundled Services. In addition to the Terms and Conditions set forth herein, if you purchase Web Loft Services which are sold together as a solution or bundled package of Services, any termination relating to any one such solution or bundled package will terminate all Web Loft Services included in such solution or bundled package. For instance, without limiting the generality of the foregoing, any domain name registered with or maintained by Web Loft under this Agreement (but not including any domain names you may have registered, either with Web Loft or a third-party registrar, separately and not as part of a bundled package) may be cancelled and may thereafter be available for registration by another party. You acknowledge and agree that upon any termination or cancellation of your solution or bundled package, the Terms and Conditions regarding transfer of expired domain names as described in this Service Agreement may apply. Upon the effective date of termination, Web Loft will no longer provide the solution or bundled package to you, any licenses granted to you will immediately terminate, and you must cease using such Services immediately; provided, however, that we may, in our sole and absolute discretion and subject to your agreement to be bound by the applicable agreements and to pay the applicable fees, allow you to convert certain Services included in the bundled Services to stand-alone Services.

5. OWNERSHIP

A. Generally. Except as otherwise set forth herein (including as to development Services done on a work-for-hire basis as set forth below), all right, title and interest in and to: (i) all registered and unregistered trademarks, service marks and logos; (ii) all patents, patent applications and patentable ideas, inventions and/or improvements; (iii) all trade secrets, proprietary information and know-how; (iv) all divisions, continuations, reissues, renewals and extensions thereof now existing or hereafter filed, issued or acquired; (v) all registered and unregistered copyrights including, but not limited to, any forms, images, audiovisual displays, text and software; and (vi) all other intellectual property, proprietary rights or other rights related to intangible property which are used, developed, comprising, embodied in or practiced in connection with any of the Web Loft Services identified herein (collectively, "Web Loft Intellectual Property Rights") are owned by Web Loft or its licensors, and you agree to

make no claim of interest in or ownership of any such Web Loft Intellectual Property Rights. You acknowledge and agree that no title to the Web Loft Intellectual Property Rights is transferred to you, and that you do not obtain any rights, express or implied, in Web Loft's Service or its licensors' service, other than the rights expressly granted in this Agreement. To the extent that you create any derivative work (any work that is based upon one or more preexisting versions of a work provided to you, such as an enhancement or modification, revision, translation, abridgement, condensation, expansion, collection, compilation or any other form in which such preexisting works may be recast, transformed or adapted), any such derivative work is owned by Web Loft and all right, title and interest in and to each such derivative work automatically vests in Web Loft. Web Loft has no obligation to grant you any right in any such derivative work.

B. Software Ownership and Licenses. Except as otherwise set forth herein (including as to development Services done on a work-for-hire basis as set forth below), any software provided by Web Loft under this Agreement in respect of which Web Loft reserves the rights thereto pursuant to this Section ("Web Loft Software") and all worldwide intellectual property rights therein are the exclusive property of Web Loft. All rights in and to the Web Loft Software not expressly granted to you in this Agreement are reserved by Web Loft. You acknowledge that the Web Loft Software and its structure, organization and source code constitute valuable trade secrets of Web Loft. Accordingly, except as expressly allowed under this Agreement, you will not, either directly or through a third party:

- (i) copy, modify, adapt, alter, translate or create derivative works from the Web Loft Software;
- (ii) distribute, sublicense, lease, rent, loan or otherwise transfer the Software to any third party; or
- (iii) reverse engineer, decompile, disassemble or otherwise attempt to derive the source code for the Web Loft Software. In the event of expiration or termination of this Agreement for any reason, the Web Loft Software licenses granted under this Agreement will automatically and immediately cease and you must destroy all copies of the Web Loft Software or related documentation in your possession.

"Website" includes any website, including any mobile or other variant and any Android or iOS application, social media and other online account or profile.

"Background Technology" means computer programming and formatting code or operating instructions developed by or for Web Loft and used to host or operate a Website or a web server in connection with a Website. Background Technology includes, but is not limited to, any files necessary to make forms, buttons, checkboxes and similar functions, as well as underlying technology or components, such as style sheets, animation templates, interface programs that link multimedia and other programs, customized graphics manipulation engines and menu utilities, whether in database form or dynamically driven. Background Technology does not include any content provided by Customer ("Customer Content") or any derivatives, improvements or modifications of Customer Content. All rights to the Background Technology not expressly granted to you hereunder are wholly retained by Web Loft. Where such Background Technology is provided to you hereunder, you may not, either directly or through a third party, perform the following:

- (i) copy, modify, adapt, alter, translate or create derivative works from the Background Technology;
- (ii) distribute, sublicense, lease, rent, loan or otherwise transfer the Background Technology to any third party; or
- (iii) reverse engineer, decompile, disassemble or otherwise attempt to derive the source code for the Background Technology.

In the event of expiration or termination of this Agreement for any reason, any Background Technology licenses granted under this Agreement will automatically and immediately cease and you must destroy all copies of the Background Technology or related documentation in your possession.

Certain additional features that Web Loft may make available to you may require access to and/or installation of additional software (including third-party software) that is subject to supplemental or independent terms and conditions ("Additional Software"). Similarly, Web Loft may make available "Additional Services" (including

third-party services) that are subject to supplemental or independent service agreements or other related terms and conditions. You agree that you will not use such Additional Software or Additional Services unless you have agreed to the applicable service agreements and/or other related terms and conditions, including, but not limited to, your payment of additional fees as required.

Customer may be responsible to correct or provide the services necessary to remedy any programming error that occurs in the Background Technology or Software due to your modification or alteration of the Background Technology or Software licensed to you. If corrections are required for the Background Technology or Software due to any modifications by you, you shall be liable to Web Loft for the payment of any additional fees due to the additional technical assistance required to correct any errors due to such modifications.

C. Trademark Ownership, Licenses and Restrictions. Upon your election to use and pay the applicable fees for certain features of the Web Loft Software or in conjunction with certain Services, Web Loft may grant to you a non-exclusive, non-transferable, revocable, royalty-free license (without the right to grant sublicenses) to use and reproduce those trademarks expressly provided to you by Web Loft for use under this Agreement (the “Web Loft Marks”). The Web Loft Marks are solely for use in the display on those locations on your Website’s webpages as designated by Web Loft in its sole and absolute discretion, and solely in accordance with any Web Loft Trademark Use Policy, which is incorporated herein by reference and that Web Loft may periodically change from time to time without notice to you. Web Loft grants you no rights whatsoever in the Web Loft Marks other than those expressly granted in this Section. You acknowledge and agree to Web Loft’s exclusive ownership of the Web Loft Marks. You agree not to take any action inconsistent with such ownership and you agree not to adopt, use or attempt to register any trademarks or trade names that are confusingly similar to the Web Loft Marks or in such a way as to create combination marks with the Web Loft Marks. At Web Loft’s request, and in its sole and absolute discretion, you must immediately discontinue any use and display of the Web Loft Marks. You acknowledge and agree that, except with respect to the limited trademark license expressly granted in this Section, no licenses are granted by Web Loft with regard to any other trademarks, service marks or trade names owned by Web Loft or affiliates.

D. Ownership of Data. You acknowledge and agree that Web Loft owns all database, compilation, collective and similar rights, title and interest worldwide in our domain name and other proprietary information databases, and all information and derivative works generated from those databases. Additionally, you hereby grant to Web Loft a nonexclusive, worldwide, perpetual, irrevocable, fully paid-up right and license to use in our business, however it evolves, including the rights to copy, distribute, display, perform, transmit, prepare derivative works from or otherwise use without restriction the following information: (i) the original creation date of a domain name registration or other Service; (ii) the expiration date of a domain name registration or other Service; (iii) the name, postal address, e-mail address, voice telephone number, and where available, fax number of the contact person for a Service, or of the registrant contact, technical contact, administrative contact, zone contact and billing contact for a domain name registration; (iv) any other information concerning a registered domain name or Service that appears or may appear in a WHOIS database or Web Loft database; and (v) any other information we generate or obtain in connection with the provision of the Services. Web Loft does not have any ownership interest in your specific personal registration information or other information other than our rights in our domain name and Web Loft databases as set forth in this Section.

E. Use and Ownership of Images. The Services may contain, utilize or otherwise involve photo images and as such Web Loft may provide the Images to you in the process of providing the Services (the “Web Loft Provided Images”). The Web Loft Provided Images are either owned by Web Loft or licensed from a third party. Unless otherwise stipulated by Web Loft, your use of the Web Loft Provided Images is subject to the restrictions set forth in this Section and otherwise in accordance with this Agreement. Provided you are not in breach of this Agreement or any of the representations and warranties contained herein, and provided you have paid the applicable fees, you may perform the following actions subject to the restrictions set forth in this Section (upon termination of the Services or this Agreement all of your rights and licenses in and to the Images will immediately terminate):

(i) incorporate the Web Loft Provided Images into your own original work and publish, display and distribute your work on the Website. You may not, however, resell, sublicense or otherwise make available the Web Loft Provided Images for use or distribution separately or detached from a product or webpage. For example, the Web Loft Provided Images may be used as part of a webpage design, but may not be made available for downloading separately or in a format designed or intended for permanent storage or re-use by others. Similarly, you may be

provided with copies of the Web Loft Provided Images (including digital files) as part of work product, but you are not permitted to use the Web Loft Provided Images separately or as part of any other product without additional advance written permission from Web Loft (which permission may be withheld at Web Loft's discretion and which may require additional terms and/or fees, especially in respect of web Loft Provided Images that are licensed from a third party);

(ii) back up, copy, or archive the Web Loft Provided Images as necessary for internal use, and only as necessary for that use. Any copy or archive you make must include the Web Loft Provided Image's copyright information; and

(iii) in the normal course of workflow, convey to a third party (such as a printer) temporary copies of the Web Loft Provided Images that are integral to your work product and without which the product could not be completed.

With respect to the use of any Web Loft Provided Images, you may not:

(i) create scandalous, obscene, defamatory or immoral works using the Web Loft Provided Images, nor use the Images for any other purpose which is prohibited by law;

(ii) use the Web Loft Provided Images or any part of it as part of a trademark, service mark or logo. Web Loft and those third parties from whom they have licensed images retain the full rights to the Web Loft Provided Images, and therefore you cannot establish their own rights over any part of the Web Loft Provided Images;

(iii) remove any copyright or trademark from any place where it appears on the Web Loft Provided Images or its accompanying materials;

(iv) rent, lease, sublicense or lend the Web Loft Provided Images, or a copy thereof, to another person or legal entity without the express written consent of Web Loft;

(v) transfer the rights to the Web Loft Provided Images, accompanying materials or storage media for the Web Loft Provided Images, except as specifically provided for in this Agreement. All other rights are reserved by Web Loft and those third parties from whom Web Loft has licensed images;

(vi) reverse engineer, decompile, or disassemble any part of the Web Loft Provided Images, accompanying materials or storage media for the Web Loft Provided Images, subject to applicable law;

(vii) copy or reproduce the Images, accompanying materials or storage media for the Web Loft Provided Images;

(viii) display the Web Loft Provided Images in any digital format or for any digital use at a resolution greater than 640x480 pixels, except in editorial or preliminary design work. Doing so will be viewed as an attempt to distribute the Web Loft Provided Images in violation of this Agreement;

(ix) re-sell, distribute or sub-license the Web Loft Provided Images, storage media for the Web Loft Provided Images, or the rights to use the Web Loft Provided Images to anyone for any purpose, except as specifically provided for in this Agreement; or

(x) use the Web Loft Provided Images in any way that could be considered defamatory, libelous, pornographic, immoral, obscene or fraudulent, either by making physical changes to the Web Loft Provided Images or in the juxtaposition of the Web Loft Provided Images to accompanying text. You agree not to use Web Loft Provided Images as part of any use involving sensitive subject matter, as determined by Web Loft in its sole and absolute discretion, including, but not limited to, the following sensitive subjects: all sexual issues, sexually transmitted diseases, pregnancy termination issues, prostitution, pornography, religious, political party or other ideological criticisms, crime, substance abuse, alcohol, tobacco, recreational drugs, cancer, mental ailments, alternative lifestyle issues and physical or mental abuse, without advance written consent from Web Loft and any model in such Image. Sensitive subject usage pertains to both commercial and editorial uses.

F. Work-For-Hire Development Services. When Web Loft provides work-for-hire design and/or development services for a Customer ("Development Services"), as indicated in the SOW or other Additional Agreement for such

Development Services, the following ownership provisions shall in respect of any applicable Work Product (as defined below) accepted by Customer under applicable Development Services if Customer has fully satisfied its obligations, including its payment obligations, under the applicable SOW for such Development Services, including the terms of this Agreement incorporated therein:

(i) To the extent any Work Product, inventions, Innovations (as defined below), technologies, reports, memoranda, studies, writings, articles, plans, designs, specifications, exhibits, software code, or other materials are prepared or developed by Web Loft in the performance of Services (excluding in each case any Open Source Components as hereafter defined), such materials are acknowledged and agreed to be specially commissioned by Customer, and shall be deemed “work for hire” performed by Web Loft. To the extent any materials provided to Customer under the applicable Development Services to do not qualify as “work for hire” under applicable law despite the Parties agreement in respect thereof above, and to the extent they include Intellectual Property Rights (as defined below), Web Loft hereby irrevocably and exclusively assigns to Customer all of Web Loft’s right, title, and interest in and to all such materials, including the rights to sue, counterclaim and recover for all past, present and future infringement, misappropriation and dilution thereof. To the extent any of Web Loft rights in the same, including without limitation any moral rights, are not subject to assignment hereunder, Web Loft hereby irrevocably and unconditionally waives all enforcement of such rights. All documents, magnetically or optically encoded media, and other tangible materials included in Work Product pursuant to Development Services shall be owned by Customer. To the extent there is any base technology, know-how or previously developed skills of Web Loft that is not included within the Work Product (“Know-How”), Web Loft represents and warrants that it owns such Know-How and grants to Customer a paid-up, perpetual, non-exclusive, transferable, worldwide license to use, modify, reproduce, transfer and sublicense such Know-How.

(a) “Work Product” means tangible and intangible deliverables, work product, and all other writings, works of authorship, inventions, discoveries, developments, processes, techniques, methods, devices, technologies, ideas, concepts, research, proposals, materials, app and/or website development, source and other code, schematics business plans and strategies, plans and ideas for products produced for Customer under the applicable software development project.

(b) “Innovations” includes processes, machines, compositions of matter, improvements, inventions (whether or not protectable under patent laws), works of authorship, information fixed in any tangible medium of expression (whether or not protectable under copyright laws), moral rights, mask works, trademarks, trade names, trade dress, trade secrets, know-how, ideas (whether or not protectable under trade secret laws), and all other subject matter protectable under patent, copyright, moral right, mask work, trademark, trade secret or other laws, and includes without limitation all new or useful art, combinations, discoveries, formulae, manufacturing techniques, technical developments, discoveries, artwork, software, and designs.

(c) “Intellectual Property Rights” means any and all rights in and to (I) patents, patent disclosures and inventions (whether patentable or not), (II) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, and other designations of source, sponsorship, affiliation or origin, together with all related goodwill, (III) copyrights, copyrightable works and other works of authorship (including computer programs), mask works, data, data collections and databases, (IV) trade secrets, know-how and other confidential or proprietary information, (V) moral rights, and (VI) any and all other intellectual property rights, in each case whether registered or unregistered and including all related rights of priority under international conventions, all pending and future applications and registrations and continuations, divisions, continuations-in-part, reissues, extensions, substitutions, re-examinations and renewals thereof, and all similar or equivalent rights or forms of protection in any part of the world.

(ii) Web Loft retains no rights to Customer’s pre-existing Intellectual Property, other than as needed and to perform Services and only so long as needed to perform the Services or until the applicable SOW for Services is terminated, whichever is earlier.

(iii) Any and all Websites created or used by Web Loft on behalf of Customer, or otherwise for the purpose of promoting or marketing Customer or its businesses, including such profiles and accounts featuring or displaying any names and trademarks of Customer (“Protected Online Presences”), belong solely to Customer. Each Protected Online Presence includes any and all log-in information, data, passwords, trademarks and content related to the

profile or account, including all followers, subscribers and contacts. Protected Online Presences shall not include any Websites that are created or used by Web Loft primarily for Web Loft's own use. Web Loft agrees not to create, develop or maintain any Protected Online Presences without Customer's express prior authorization. All approved Protected Online Presences shall where possible be registered, in whole or in part, using Customer's name and contact information. After registration, the log-in and password information for each Protected Online Presence shall promptly be reported to Customer and not be changed thereafter without prior express authorization from Customer. Upon Customer's request at any time during the term of the applicable SOW or immediately upon and after termination for any reason, Web Loft agrees to cease accessing, using, updating or modifying the Protected Online Presences. Web Loft also agrees to assist Customer, both prior to and after termination of the SOW (as may be necessary), with the transition and maintenance of each Protected Online Presence created or used by Web Loft for Customer, including providing information that may be necessary to ensure that Customer is able to access the Protected Online Presences.

(iv) Web Loft will sign all documents reasonably necessary to vest in Customer, all of Web Loft's rights to Work Product, Know-How, Innovations, and Intellectual Property Rights as in which it has ownership rights under this Section 5F. Web Loft agrees to assist Customer in any reasonable manner to obtain, perfect and enforce, for the benefit of Customer, its rights, title and interest in any and all countries, in and to all such Intellectual Property Rights in each of such Innovations. Web Loft agrees to execute, when requested, for the Work Product and Innovations which are owned or licensed to Customer as provided above (including derivative works, improvements, renewals, extensions, continuations, divisionals, continuations in part, or continuing patent applications thereof), (i) patent, copyright, mask work or similar applications related to such Work Product and Innovations, (ii) documentation to permit such applicable party to obtain, perfect and enforce their right, title and interest in and to such Work Product and Innovations, and (iii) any other lawful documents deemed necessary by for them to carry out the purpose of the applicable SOW. In the event that Customer is unable for any reason to secure Web Loft's signature to any document Web Loft is required to execute under this Section 5F ("Assistance"), Web Loft hereby irrevocably designates and appoints Customer and Customer's duly authorized designees and agents as Web Loft's agents and attorneys-in-fact to act for and in Web Loft's behalf and instead of Web Loft, to execute such document with the same legal force and effect as if executed by Web Loft. In this regard Web Loft grants Customer an irrevocable power of attorney, coupled with an interest, to sign any such documents in its name, place and stead if Web Loft is unable or unwilling to do so.

(v) Web Loft and its licensors are, and shall remain, the sole and exclusive owners of all Intellectual Property Rights in and to all tangible and intangible subject matter, including all inventions, works, documents, data, know-how, methodologies, software, information and materials, that Web Loft developed or acquired individually or jointly with others prior to the commencement of any SOW (other than as developed for Customer under prior Development Services on a work-for-hire basis) not for specific use in providing the Services or in creation of the Work Product under such SOW that Web Loft or its licensors provide ("Pre-Existing Materials"). Web Loft shall not incorporate into any Work Product to be owned by Customer under this Section 5F any Pre-Existing Materials or any tangible or intangible materials in which Intellectual Property Rights are owned or otherwise controlled by any third party (Third Party Materials"), including any of Web Loft's licensors, clients, customers, employers, businesses or companies, or cause or require any Pre-Existing Materials to be necessary for the use of any Work Product, other than is licensed under clause i. of this Section 5F or under this clause without obtaining Customer's prior written consent. To the extent that any Pre-Existing Materials are incorporated in or necessary for any use or exploitation of any Work Product, Web Loft shall and hereby does grant to Customer, a royalty-free, fully paid-up, perpetual, irrevocable, transferable, sub-licensable, worldwide, non-exclusive right and license to use, execute, reproduce, publicly perform and display, modify, improve, create derivative works of, distribute, transmit, import, make, have made, sell and offer to sell and otherwise exploit any Pre-Existing Materials, including all such modifications, improvements and derivative works thereof, solely to the extent such Pre-Existing Materials are incorporated in, combined with or otherwise necessary to use or exploit for any purposes the Work Product to be owned by Customer under this Section 5F. To the extent any third party agreement or consent is required to extend the license set forth in the previous sentence Web Loft shall obtain such agreement or consent at its own effort, cost and/or expense and shall indemnify and hold harmless Customer, from any failure to do so or to do so without full effectiveness thereof to completely satisfy the requirements of the preceding sentence. To the extent that any Third Party Materials are incorporated in or necessary for any use or exploitation of any Work Product, Web Loft shall obtain any third party agreement or consent as is required to provide to Customer a royalty-free, fully paid-up, perpetual, irrevocable, transferable, sub-licensable, worldwide, non-exclusive right and license to such Third Party

Materials as is necessary to use or exploit for any purposes the Work Product to be owned by Customer under this Section 5F.

(vi) Web Loft shall not include in the Work Product to be owned by Customer under this Section 5F any Open Source Components, except for Open Source Components for which Web Loft shall obtain the necessary licensing rights thereto to enable Customer and its customers to use the Work Product without further expense to Customer or its customers. "Open Source Components" means any software components that are subject to any open source copyright license agreement, including but not limited to any GNU General Public License or GNU Library or Lesser Public License, or other license agreement that substantially conforms to the Open Source Definition as prescribed by the Open Source Initiative.

(vii) Web Loft hereby represents and warrants that its knowledge, none of the Services, the Work Product, or Pre-Existing Materials, or Customer's receipt or use of any of them or other exercise of their rights or license under the applicable SOW does or will infringe, misappropriate, dilute or otherwise violate Intellectual Property Rights or other rights of any third party.

6. CUSTOMER RESPONSIBILITIES

A. Generally, You shall be responsible for the following (whereby you agree that your failure to perform these responsibilities shall be deemed a material breach of this Agreement):

(i) providing current and updated Customer information (including your name, address, e-mail address, postal address, phone and fax numbers, etc.) for Web Loft's use in contacting you regarding the Services and otherwise as necessary with regard to the Services and checking those points of contact throughout the term of this Agreement for notices and/or updates from Web Loft;

(ii) providing Web Loft with all necessary information, data, text, music, sound, images, photographs, graphics, video, messages, tags, custom images (including, but not limited to, design, pamphlets, brochures, logos and other images) and other materials (collectively, the "Content") to be used in connection with your website or online store (the "Website") or otherwise for use in conjunction with the Services, other than that Content which Web Loft expressly agrees to supply;

(iii) acquiring any authorizations necessary to use the intellectual property (including, but not limited to, copyrights and trademarks) or information of third parties (except as provided to the contrary in Section 5F above);

(iv) contacting Web Loft for all changes, modifications and enhancements to the Website and/or Services starting from the date of sale and otherwise remaining engaged in the related processes;

(v) providing Web Loft with unrestricted access to the Website and/or related accounts as needed for Web Loft to provide the Services hereunder;

(vi) granting to Web Loft and its subcontractors the necessary rights and licenses with respect to the Website, the Content and materials related thereto in order to carry out obligations under this Agreement;

(vii) allowing Web Loft to make a reasonable number of archival or backup copies of the Website as deemed necessary by Web Loft in providing the Services;

(viii) ensuring that you maintain a current and complete backup of your Content at all times;

(ix) obtaining Internet connectivity to access the Website, to send and receive e-mail and to otherwise access and utilize the Internet; and

(x) contacting Web Loft with notice of your decision to cancel or discontinue the Services. IF NO SUCH NOTIFICATION IS GIVEN TO WEB LOFT BY YOU, WEB LOFT WILL ASSUME YOU ARE SATISFIED WITH AND ACCEPT ALL SERVICES, AND WEB LOFT WILL BILL ANY RELATED SERVICE FEES AS PROVIDED THEREFOR OR OTHERWISE IDENTIFIED BY YOU.

B. Development Services. Web Loft makes proposals and estimates for its Development Services under the processes of and it undertakes its Development Services under the “Agile Method” which requires extensive and ongoing Customer involvement and cooperation. Delivery of Development Services at the fees set forth in any SOW or other Additional Agreement are dependent on Customers involvement in all aspects of the Development Services, Customer’s ability to provide accurate and complete information as needed, the timely and effective completion of Customer’s responsibilities, accurate information provided by Customer in connection with making any proposal or estimate and performing the Development Services, and timely decisions and approvals by Customer. In this regard, responsibilities of Customer include:

- (i) Coordination with Customer’s resources and staff schedules as needed.
- (ii) Providing co-located space and network access for the Web Loft team.
- (iii) Providing one project sponsor/manager with decision making authority regarding requirements and design (“Project Manager”).
- (iv) Providing, as needed, business user representatives or subject matter experts.
- (v) Assuming responsibility for management of all non-Web Loft managed vendors.
- (vi) User Acceptance Testing (UAT) direction and execution.
- (vii) Providing access with proper licenses to all necessary tools and third party products required for Web Loft to complete its assigned tasks (except as provided to the contrary in Section 5F above).
- (viii) Development and delivery end user training (with the assistance of Web Loft if provided in the applicable SOW or other Additional Agreement).
- (ix) Review and approval of project deliverables.
- (x) Provision of details of all relevant policies and standards, which may have a bearing on design or implementation.
- (xi) Provision of detailed user scenarios and requirements for all functionalities so Web Loft’s focus is in refining and clarifying the requirements rather than defining them and so Web Loft may complete appropriate Work Product.
- (xii) Establishing project governance model in partnership with Web Loft to ensure that project scope is being managed proactively and project stays on track. In performing our services, Web Loft will rely upon any instructions, authorizations, approvals or other information provided to us by your Project Manager or by any other personnel identified by your Project Manager.
- (xiii) Provision to Web Loft with a list of Customer’s Microsoft license subscriptions and other applicable Customer license subscriptions prior to Web Loft bringing to undertake Development Services efforts or upon license purchase, if later.

C. Website Control and Content. Unless otherwise expressly stated herein or in an applicable SOW or other Additional Agreement, you will be solely responsible for the development, maintenance and operation of your Website, including the accepting, processing and filing of customer orders generated through your Website, and handling any customer inquiries, complaints or disputes arising from orders or sales generated through your Website. You agree that Web Loft has no obligation to backup any data related to your Website’s Content, data or operation and you should independently take appropriate steps to maintain such data in accordance with your needs and requirements.

You will be solely responsible for creating, managing, editing, reviewing, deleting and otherwise controlling the Content on your Website, regardless of whether Web Loft provides any design or customization Services to you under this Agreement, including all descriptions of the products and services you offer to customers of your Website

and user-generated Content on and related to your Website. You retain all rights, title and interest in and to all Intellectual Property Rights embodied in the Content, exclusive of any Content provided by Web Loft (except as provided to the contract in Section 5F above).

You acknowledge that, when providing you with the ability to publish and distribute your own or third-party products, services or Content on your Website, Web Loft and the Web Loft Software are acting only as passive conduits for the publishing and/or distribution of such products, services or Content. Web Loft has no obligation to you or any third party, and undertakes no responsibility to review your Website, the products or services listed therein or any other Content, including, but not limited to, user-generated Content published and/or distributed on your Website to determine whether any such product, service or Content may incur liability to third parties.

Except as otherwise stated in this Agreement, you are to be considered the owner of all Customer Content. During the period that Web Loft provides Services to you pursuant to this Agreement, you hereby grant to Web Loft and its subcontractors a limited, non-exclusive, royalty-free, worldwide license to copy, reproduce, distribute, transmit, display, perform, create derivative works from, modify, and otherwise use your Website and the Content solely for the purpose of rendering the Services hereunder. You also acknowledge and agree that Web Loft reserves the right to use your domain name and your Website screen shots in Web Loft's portfolio and/or other advertising and promotional materials as provided for above.

In the event that you post Content or allow your users to upload Content onto your Website, you agree to designate a copyright agent under the Digital Millennium Copyright Act (the "DMCA") (see 17 U.S.C 512(c)(3) for further detail). In the event that a copyright holder contacts Web Loft 's copyright agent under the DMCA, you acknowledge and agree that Web Loft may take all necessary action as required under the DMCA in its sole and absolute discretion, including removing Content from your Website.

D. Customer Collection; Use of Visitor Data; Privacy Policy. You are solely responsible for maintaining all Customer Data that is collected by or disclosed to you and use and disclose such information solely in accordance with your privacy policy and applicable law. You must post, maintain and adhere to applicable law as to privacy and your privacy policy that informs your Website customers what Visitor Data is collected, how it is used, the effective date of your privacy policy and how customers of your Website can learn of changes to your privacy policy. You are responsible for assuring that your privacy policy complies with applicable law. You shall include a hyperlink to your privacy policy on the home page of your Website and on all pages where you collect Visitor Data. In addition, you must prominently include within your posted privacy policy a statement, to the extent applicable, notifying your customers that Web Loft has access to aggregated information about customers of your Website in order for Web Loft to analyze performance and make improvements to Web Loft products.

E. Accurate Information. You agree to: (1) provide certain true, current, complete and accurate information about you; and (2) maintain and update the information you provided to us as needed per our modification procedures in order to keep the information current, complete and accurate. We rely on this information to send you important information and notices. You agree that Web Loft (itself or through its third-party service providers) is authorized, but not obligated, to use Coding Accuracy Support System ("CASS") certified software and/or the National Change of Address program (and/or such other systems or programs as may be recognized by the United States Postal Service or other international postal authority for updating and/or standardizing address information) to change any address information associated with your account (e.g., registrant address, billing contact address, etc.), and you agree that Web Loft may use and rely upon any such changed address information for all purposes in connection with your account (including the sending of invoices, order confirmations and other important account information) as though such changes had been made directly by you.

F. Rights of Web Loft for Violation of this Section. In addition to any other rights arising from any breach of this Agreement by you, Web Loft may exercise any of the following rights upon your failure to comply with the provisions of this Section:

(i) The applicable project may be placed on hold. This may particularly apply in the event of lack or delay of provision of Customer communications, Customer Content, or due progress payments. Any such hold shall defer any deadline for three times the length of such hold period.

(ii) When projects are placed on hold, Web Loft incurs additional project management, collections and resource reallocation costs associated with the delays. As such, in the event that the project is placed on hold, Customer shall pay a project extension fee equal to the greater of 10% of the project price or \$650, whichever is greater. If so assessed Customer shall pay this fee within 10 days of receipt of invoice.

(iii) Web Loft may allow a project under this Section to remain on hold for a maximum total of 30 days to while awaiting Customer to remedy the circumstances that resulted in the hold of the project. If a project is placed on hold for more than 30 without response, Web Loft may, at its option, complete the site per Web Loft's understanding of the scope (including with placeholder content, as determined by Web Loft in its sole and absolute discretion), and upon such completion the project fee shall become due and payable in full.

(iv) If a project is placed on hold for any reason and then reactivated, upon reactivation (a) the project timeline shall be adjusted to reflect the delays as provided above and taking into account Web Loft's other project load at the time of reactivation, and (b) upon such reactivation, Web Loft shall not be obligated to meet the original production estimate.

7. CUSTOMER REPRESENTATIONS AND WARRANTIES

Customer hereby represents and warrants as follows:

(i) Customer can form legally binding contracts under applicable law;

(ii) Customer is at least eighteen (18) years old and is responsible for supervising the activities of any underage user;

(iii) to Customer's knowledge, there is no action, proceeding or investigation pending or threatened which questions, directly or indirectly, the validity or enforceability of this Agreement or any SOW or other Additional Agreement; iv. entering into this Agreement or otherwise purchasing the Services will not conflict with, or result in a breach of, the terms, conditions or provisions of, or constitute a default or result in a termination of, any agreement or instrument to which Customer is a Party;

(v) Customer has taken all actions required by applicable law and have obtained all consents which are necessary to authorize or enable it to enter into this Agreement, any SOW or Additional Agreement, and/or purchase the Services;

(vi) to the extent that Customer is a business entity, the individual ordering the Services or otherwise entering into this Agreement on behalf of Customer has been duly authorized and is empowered to bind Customer business entity to this Agreement;

(vii) Customer shall ensure the accuracy of the materials provided to Web Loft, including, but not limited to, Content, descriptive claims, warranties, guarantees, nature of business, and contact information;

(viii) Customer shall acquire any authorization necessary for hypertext links to third-party websites used on your Website or otherwise in conjunction with the Services;

(ix) Customer will not provide Content or other materials, or use the Services in any manner that either directly or indirectly infringes any rights of a third party; and

(x) Customer's Content, other materials provided in conjunction with the Services, and use of the Services will in all respects conform to all applicable laws and regulations.

(xi) For all domain names or uniform resource locators used by Customer in conjunction with the Services (collectively the "URLs"), any name or word submitted to be used as all or part of a domain name or URL does not infringe any trademark or any third party's domain name rights; and

(xii) Customer has a good faith intention to use any domain name or URL it requests in connection with the Services and is not merely “cybersquatting” (i.e., obtaining a domain name merely for the purpose of selling the rights to the domain name or subdomain to a third party).

For any and all end user-facing policies and/or terms provided by Web Loft to Customer for use on Customer’s Website (i.e., a Customer privacy policy), Customer shall review and fully adhere to any such policy. Customer acknowledges and agrees that it is solely responsible for revising any such policy to accurately reflect Customer’s business practices. You agree that, if you are using the Services for a third party, you represent and warrant that you have: (i) provided notice to that third party of your intent to purchase the Services; (ii) obtained that third party’s express consent to purchase the Services on its behalf; and (iii) the authority to nonetheless bind that third party as a principal to all Terms and Conditions provided herein. You accept sole and absolute liability for harm caused by the wrongful use of the Services.

8. ACCOUNT ACCESS

To access or use the Web Loft Services or to modify your account or to collaborate with various project management systems, you may be required to establish an account and obtain a login name, account number, password and/or passphrase. So far as applicable payments to us you authorize us to process any and all account transactions initiated through the use of your login name, account number, password and/or passphrase. You are solely responsible for maintaining the confidentiality of your login names, account numbers, passwords and passphrases. You must immediately notify us of any unauthorized use of your login name, account numbers, passwords or passphrases and you are responsible for any unauthorized activities, charges and/or liabilities made through your login names, account numbers, passwords or passphrases. In no event will we be liable for the unauthorized use or misuse of your login names, account numbers, passwords or passphrases, or for the unauthorized access to your account(s) as a result of same.

9. PRIVACY, DISCLOSURE AND USE OF INFORMATION

You represent and warrant that you have provided notice to, and obtained consent from, any third-party individuals whose personal data you supply to us as part of our Services with regard to: (i) the purposes for which such third party’s personal data has been collected; (ii) the intended recipients or categories of recipients of the third party’s personal data; (iii) which parts of the third party’s data are obligatory and which parts, if any, are voluntary; and (iv) how the third party can access and, if necessary, correct the data held about them. You further agree to provide such notice and obtain such consent with regard to any third party’s personal data you supply to us in the future. We are not responsible for any consequences resulting from your failure to provide notice or receive consent from such individuals nor for your providing outdated, incomplete or inaccurate information.

You acknowledge and agree that Web Loft may make available information you provide or that we otherwise maintain to such public or private third parties as applicable laws require or permit, including, but not limited to, making publicly available, or directly available to third parties, some or all of such information as follows: (i) for inspection by law enforcement officials (including in the case of potential criminal activity); (ii) to respond to criminal and civil subpoenas and court orders that reasonably appear to be valid; (iii) in connection with the sale of all or certain of our assets; (iv) to enforce or apply the terms of this Agreement; and (v) to protect the rights, property or safety of Web Loft, our users or others, whether during or after the term of your use of the Services. Web Loft reserves the right to report activity that it believes to be potentially criminal to the appropriate law enforcement agencies.

You further acknowledge and agree that Web Loft may make publicly available or directly available to third parties, some or all of the information you provide for purposes of inspection (such as through our WHOIS service) or for targeted marketing and other purposes as required or permitted by applicable laws.

You hereby consent to any and all such disclosure and the use of guidelines, limits and restrictions on such disclosure or the use of information provided by you in connection with the use of any Services (including any updates to such information), whether during or after the term of the Services. You hereby irrevocably waive any and all claims and causes of action you may have arising from such disclosure or use of information provided by you to Web Loft.

In the event that (i) we are to provide any Services and you are providing information about a third party you hereby represent and warrant that you have (a) provided notice to that third party of the disclosure and use of that party's information as set forth in this Agreement and (b) obtained that third party's express consent to the disclosure and use of that party's information as set forth in this Agreement.

You acknowledge and agree that willfully providing inaccurate or unreliable information or willfully failing to update information promptly will constitute a material breach of this Agreement that will be a sufficient basis in our sole and absolute discretion to cancel your Services.

Web Loft retains the nonexclusive, perpetual and worldwide right to display, reproduce and distribute images of its work for your Website in Web Loft's websites' and third party trade publications or exhibits, solely for the purpose of promoting or exemplifying Web Loft's work, and the right to be credited with copyright ownership and authorship of the designs in connection with such use. You agree that Web Loft may display a small link describing the work (e.g., "site design by _____ [Web Loft's preferred moniker]" with that name as a link), which will only appear in small print at the bottom of your home page. If you decide that you would like to remove this credit, you may do so at any time for a fee of \$10,000. Web Loft also retains the right to display images of your Website and logo in Web Loft's portfolio and websites and in third party trade publications or exhibits, solely for the purpose of promoting or exemplifying Web Loft's work.

10. DISCLAIMER

YOU ACKNOWLEDGE AND AGREE THAT YOUR USE OF THE SERVICES IS SOLELY AT YOUR OWN RISK, AND THAT EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. WEB LOFT EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. FURTHERMORE, WEB LOFT DOES NOT WARRANT THAT THE SERVICES AND/OR ANY INFORMATION OBTAINED THEREBY WILL BE COMPLETE, ACCURATE, UNINTERRUPTED, SECURE OR ERROR FREE. WEB LOFT FURTHER MAKES NO WARRANTY THAT THE SERVICES WILL MEET YOUR REQUIREMENTS, NOR DOES WEB LOFT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES.

11. LIMITATION OF LIABILITY

You acknowledge and agree that Web Loft will not be liable under any circumstances to you or any other party, person or entity for any damages or losses that may result from the following:

(i) TERMINATION, SUSPENSION, LOSS OR MODIFICATION OF YOUR SERVICE;

(ii) USE OF OR INABILITY TO USE THE SERVICE;

(iii) INTERRUPTION OF BUSINESS;

(iv) ACCESS DELAYS OR ACCESS INTERRUPTIONS TO THIS SITE OR A SERVICE (INCLUDING, WITHOUT LIMITATION, TO WEBSITES ACCESSED BY THE DOMAIN NAME REGISTERED IN YOUR NAME);

(v) ERRORS CREATED AFTER LAUNCH OF A WEBSITE BY THE ACTS OF CUSTOMER OR THIRD PARTIES (INCLUDING, BUT NOT LIMITED TO HOSTING AND SERVER ISSUES, DOMAIN ISSUES AND/OR REGISTRARS;

(vi) DATA NON-DELIVERY, MIS-DELIVERY, CORRUPTION, DESTRUCTION OR OTHER MODIFICATION;

- (vii) EVENTS BEYOND WEB LOFT'S AND ITS SUBCONTRACTORS' CONTROL;
- (viii) APPLICATION OF ANY APPLICABLE LAW, REGULATION OR WEB LOFT POLICY (INCLUDING, BUT NOT LIMITED TO, ANY RELEVANT DISPUTE POLICY OR ANY OTHER ICANN OR SIMILAR GOVERNMENTAL OR SUCCESSOR ORGANIZATION ADOPTED POLICIES);
- (ix) DISBURSEMENT OR NON-DISBURSEMENT OF FUNDS BY PAYMENT PROCESSORS;
- (x) TRANSACTIONS CONDUCTED ON A USER WEBSITE, INCLUDING FRAUDULENT TRANSACTIONS;
- (xi) LOSS INCURRED IN CONNECTION WITH YOUR SERVICES, INCLUDING, BUT NOT LIMITED TO, E-COMMERCE TRANSACTIONS;
- (xii) LOSS OR LIABILITY RESULTING FROM ERRORS, OMISSIONS OR MISSTATEMENTS IN ANY AND ALL INFORMATION OR SERVICES PROVIDED UNDER THIS AGREEMENT (This includes loss of data resulting from delays, non-deliveries, mis-deliveries or service interruptions caused by Web Loft's own negligence or your errors or omissions, or due to inadvertent release or disclosure of information sent by service interruptions caused by Web Loft's own negligence or your errors or omissions, or due to inadvertent release or disclosure of information sent by you.);
- (xiii) LOSS OR LIABILITY RESULTING FROM THE UNAUTHORIZED USE OR MISUSE OF ANY ACCOUNT NUMBERS, PASSWORDS OR SECURITY AUTHENTICATION OPTIONS;
- (xiv) UNAUTHORIZED ACCESS OR ALTERATION OF YOUR TRANSMISSIONS OR DATA;
- (xv) STATEMENTS OR CONDUCT OF ANY THIRD PARTY USING YOUR SERVICES;
- (xvi) LOSS OR LIABILITY RELATING TO THE DELETION OF OR FAILURE TO STORE E-MAIL MESSAGES;
- (xvii) VIOLATION OF ANY THIRD-PARTY RIGHTS, INCLUDING, BUT NOT LIMITED TO, RIGHTS OF PUBLICITY, RIGHTS OF PRIVACY, INTELLECTUAL PROPERTY RIGHTS AND ANY OTHER PROPRIETARY RIGHTS; AND
- (xviii) ANY OTHER MATTER RELATING TO YOUR USE OF THE SERVICES.

Web Loft disclaims any responsibility for any Content, goods and services sold by you or otherwise made available through your Website, or the quality or accuracy of any information on your Website. Web Loft will not endorse, warrant, or guarantee any product or service offered through your Website, and will not be a party to or in any way monitor any transaction between you and third-party purchasers of products or services offered through or resulting from the services or use of your Website, including, but not limited to, all sales of goods or services, credit card transactions, banking or securities transactions, or any business, service or merchandise agreements. Additionally, the Web Loft website may contain links to other Internet websites or resources (including partner websites or third-party advertising on a Web Loft website). You acknowledge and agree that neither Web Loft nor any third party are responsible or liable in any way for (i) the availability or accuracy of linked websites or resources or (ii) the content, advertising or products on or available from such linked websites. The inclusion of any link on our website does not imply that Web Loft or a third party endorses any of the linked websites, and you agree to use the links at your own risk.

ADDITIONALLY, WEB LOFT WILL NOT BE LIABLE TO YOU FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, (INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, GOODWILL, DATA, THE COST OF REPLACEMENT GOODS OR SERVICES, BUSINESS INTERRUPTION OR OTHER INTANGIBLE LOSSES), WHETHER FORESEEABLE OR NOT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT, INCLUDING NEGLIGENCE, EVEN IF WEB LOFT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

WEB LOFT'S AGGREGATE LIABILITY SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY YOU FOR THE SERVICES, BUT IN NO EVENT SHALL IT BE GREATER THAN FIVE THOUSAND DOLLARS (\$5,000.00), AND YOU ACKNOWLEDGE AND AGREE THAT THIS WILL BE YOUR EXCLUSIVE REMEDY UNDER THIS AGREEMENT AND OTHERWISE IN RELATION TO YOUR USE OF THE SERVICES. YOU AGREE THAT WEB LOFT'S ENTIRE LIABILITY, IN LAW, EQUITY OR OTHERWISE, WITH RESPECT TO ANY SERVICES PROVIDED UNDER THIS AGREEMENT AND/OR FOR ANY BREACH OF THIS AGREEMENT, IS SOLELY LIMITED TO THE AMOUNT YOU PAID FOR SUCH SERVICES DURING THE TERM OF THIS AGREEMENT, EXCEPT AS OTHERWISE LIMITED HEREIN. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES WEB LOFT'S LIABILITY IS LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

YOU ACKNOWLEDGE AND AGREE THAT ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ANY OF WEB LOFT'S SERVICES MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION INITIALLY AROSE OR REASONABLY COULD HAVE BEEN DISCOVERED OTHERWISE SUCH CLAIM OR CAUSE OF ACTION IS PERMANENTLY BARRED.

YOU FURTHER AGREE THAT ANY DISPUTE OR DISAGREEMENT RELATING TO OR ARISING OUT OF THIS AGREEMENT OR THE SERVICES SHALL BE RESOLVED ON AN INDIVIDUAL BASIS. AS SUCH YOU ACKNOWLEDGE AND AGREE THAT YOU MAY NOT BRING A CLAIM THAT RELATES TO OR ARISES OUT OF THIS AGREEMENT OR THE SERVICES AS A PLAINTIFF OR A CLASS MEMBER IN A CLASS ACTION, A CONSOLIDATED ACTION OR A REPRESENTATIVE ACTION. YOU ACKNOWLEDGE AND AGREE THAT CLASS ACTIONS, REPRESENTATIVE ACTIONS, PRIVATE ATTORNEY GENERAL ACTIONS, AND CONSOLIDATION WITH OTHER ACTIONS ARE NOT PERMITTED.

YOU ACKNOWLEDGE AND AGREE THAT THE LIMITATIONS CONTAINED IN THIS SECTION ARE AN ESSENTIAL ELEMENT OF THIS AGREEMENT AND ABSENT SUCH LIMITATIONS, WEB LOFT WOULD NOT ENTER INTO THIS AGREEMENT OR PROVIDE SERVICES HEREUNDER. EACH PARTY ACKNOWLEDGES THAT IT HAS NOT ENTERED INTO THIS AGREEMENT IN RELIANCE UPON ANY WARRANTY OR REPRESENTATION EXCEPT THOSE SPECIFICALLY SET FORTH HEREIN.

12. NON-DISPARAGEMENT.

Except as expressly permitted by applicable law, Customer shall neither make nor publish any statement that disparages, casts in a negative light, or otherwise impugns and/or damages the reputation of Web Loft or any of principal or any Affiliate of Web Loft, or their respective agents, officers, directors, managers, or employees, as the case may be.

13. NON-SOLICITATION.

Customer agrees that without expressed written consent, at all times until this Agreement is terminated, while Customer is employing the Services of Web Loft and for twenty-four (24) months after all work to be performed under this Agreement has been completed, Customer will not, directly or indirectly, whether individually or as an officer, director, employee, consultant, partner, stockholder, individual proprietor, joint venturer, investor, lender, consultant or in any other capacity whatsoever: solicit, divert, hire, retain (including as a consultant) or encourage to any employee or contractor of Web Loft to leave the employment or terminate its contractual arrangements with Web Loft, and that Customer shall not hire or retain (including as a consultant) any the current employee or contractor or former employee or contractor of Web Loft who has left the employment or contract period of Web Loft within twelve (24) months prior to such hiring or retention by Customer. Customer agrees that a violation of this paragraph will damage Web Loft, but that the amount of this damage would be difficult to determine. Accordingly, Customer agrees that for each violation of this paragraph, Customer shall pay Web Loft \$75,000 as liquidated damages in the event of each violation of the foregoing agreements of Customer. Notwithstanding the foregoing, this Section shall include only employees and contractors of Web Loft who provide services to Web

Loft's customers and shall not include accountants, attorneys or other independent contractors of Web Loft who provide services only to Web Loft itself.

14. INDEMNIFICATION

You agree to release, indemnify, defend and hold harmless Web Loft and Web Loft's officers, directors, employees, agents, partners, contractors, shareholders, attorneys, assigns and affiliates from and against any loss, liabilities, damages, costs, or expenses, including reasonable attorneys' fees, resulting from any third-party claim, action or demand arising under or relating to:

- (i) this Agreement or the breach of Customer warranties, representations and obligations under this Agreement or any other Web Loft term, rule, policy or agreement;
- (ii) Customer's failure to perform in accordance with this Agreement;
- (iii) Customer's use of the Services;
- (iv) the Website, Content and/or URLs; or
- (v) Customer's violation of any third-party rights.

You agree that this indemnification obligation survives this Agreement's termination or expiration. You agree to give prompt, written notice to Web Loft upon the receipt of notice of any claim by a third party against you which might give rise to a claim against Web Loft, stating the nature and basis of such claim and, if ascertainable, the amount thereof.

When Web Loft is threatened with a lawsuit or is sued by a third party, Web Loft may seek written assurances from you concerning your promise to indemnify Web Loft. Such assurances may, without limitation, be in the form of a deposit of money by you to Web Loft or its representatives to cover Web Loft's fees and expenses, including, but not limited to, reasonable attorneys' fees, in any such lawsuit or threat of suit. Your failure to provide such assurances shall be considered by Web Loft to be a material breach of this Agreement. Web Loft shall have the right to participate in any defense by you of a third-party claim related to your use of any of Web Loft's Services, with counsel of Web Loft's choice. Web Loft shall reasonably cooperate in the defense at your request and expense. You shall have sole and absolute responsibility to defend Web Loft against any claim, but you must receive Web Loft's prior written consent regarding any related settlement.

The use of Web Loft's Services to transmit certain kinds of information (including, but not limited to, computer software and other technical data) may violate export control laws and regulations of the United States, whether that information is received abroad or by foreign nationals within the United States. Since Web Loft exercises no control whatsoever over the information that is received abroad or by foreign nationals within the United States, you agree to comply with all export and import requirements as referenced herein. Since Web Loft exercises no control whatsoever over the content of information passing through its Service, the entire burden of complying with all applicable laws and regulations is your obligation. You agree to comply with such applicable laws and regulations and to indemnify and hold Web Loft harmless from any damages it may suffer resulting from any violation of the export control laws of the United States.

15. WAIVER

No waiver of any provision of this Agreement is effective unless it is in writing and signed by an authorized representative of Web Loft. Web Loft's remedies under this Agreement are cumulative and not alternative, and the election of one remedy for a breach does not preclude pursuit of other remedies. The failure of Web Loft to require your performance of any Agreement provision does not affect the full right to require such performance at any time in the future. The waiver by Web Loft of any rights arising out of any breach of any Agreement provision shall not be taken or held to be a waiver of the provision itself. Any failure by Web Loft to enforce any of its rights under this Agreement or any applicable laws does not constitute a waiver of such right.

Neither Party will be deemed to have waived any of its rights under this Agreement by lapse of time or by any statement or representation other than (i) by an authorized representative and (ii) in an explicit written waiver. No waiver of any rights arising out of a breach of this Agreement will constitute a waiver of rights relating to any prior or subsequent breach of this Agreement.

16. SEVERABILITY

You agree that the terms of this Agreement are severable. If any term or provision is declared invalid or unenforceable, in whole or in part, that term or provision will not affect the remainder of this Agreement. This Agreement will be deemed amended to the extent necessary to make this Agreement enforceable, valid and, to the maximum extent possible, consistent with applicable law and consistent with the original intention of the Parties; and the remaining terms and provisions will remain in full force and effect.

If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, Web Loft will amend or replace such provision with one that is valid and enforceable and which achieves, to the extent possible, the original objectives and intent of Web Loft as reflected in the original provision. The invalidity or unenforceability of any provision of this Agreement does not affect the validity or enforceability of any other provision of this Agreement, which will remain in full force and effect.

17. FORCE MAJEURE

Neither Party is deemed in default hereunder, nor will it hold the other Party responsible for, any cessation, interruption or delay in the performance of its obligations under this Agreement due to earthquake, flood, fire, storm, natural disaster, act of God, war, terrorism, armed conflict, labor strike, lockout or boycott, provided that in the event a force majeure event described in this Section extends for a period in excess of thirty (30) days in the aggregate, Web Loft may immediately terminate this Agreement and will have no liability therefrom.

18. ENTIRE AGREEMENT

This Agreement, as well as any additional Web Loft Terms and Conditions, SOW, other Additional Agreement, rules, policies and service agreements, together with all modifications thereto, constitute the entire agreement between you and Web Loft concerning your use of the Services and any other subject matter related to this Agreement. This Agreement supersedes and governs all prior proposals, agreements or other communications between you and Web Loft (including, but not limited to, any prior versions of this Agreement). The Parties may not waive, modify or supplement this Agreement, in whole or in part, except via written instrument signed by the Parties.

19. HEADINGS AND INTERPRETATION

The section headings contained in this Agreement are inserted for convenience only and do not affect in any way the meaning or interpretation of this Agreement. Also, in all references herein to any parties, persons, entities or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender and number as the text of this Agreement may require.

20. CONFLICTS WITH THIRD-PARTY AGREEMENTS

In the event of any conflict between this Agreement and the Terms and Conditions governing your use of any Services provided by Web Loft's third-party service providers or any registry administrator, the Terms and Conditions of this Agreement govern as it relates to any rights, obligations and remedies as between you and Web Loft.

21. ASSIGNMENT

You may not assign or transfer, either directly or through a third party, this Agreement or any of its interests, rights or obligations hereunder (in any website, product or service), without the prior written consent of Web Loft. Any attempted assignment in violation of the foregoing provision will be null and void and of no force or effect whatsoever. Web Loft may assign its rights and obligations under this Agreement, and may engage subcontractors

or agents in performing its duties and exercising its rights hereunder, without notice to or consent of Customer. This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

22. AGENCY

This Agreement does not create any agency, employment, partnership, joint venture, franchise or other similar or special relationship between you and Web Loft. Neither Party has the right or authority to assume or create any obligations or to make any representations, warranties or commitments on behalf of the other Party or its affiliates, whether express or implied, or to bind the other Party or its affiliates in any respect whatsoever. The relationship between you and Web Loft is limited to the responsibilities and obligations of both Parties as established in this entire Agreement.

23. NO THIRD-PARTY BENEFICIARIES

You acknowledge and agree that nothing herein, express or implied, is intended to nor is to be construed to confer upon or give to any person, other than you, any interests, rights, remedies or other benefits conveyed to you herein.

24. EXPORT RESTRICTIONS AND PROHIBITED TRANSACTIONS

You acknowledge and agree that you shall not import, export or re-export directly or indirectly, any commodity, including your products incorporating or using any Web Loft Services, in violation of the laws and regulations of any applicable jurisdiction. You warrant as Customer, agent and/or licensor of Customer, that you are not, nor is Customer acting on behalf of, any person or entity that is prohibited from engaging in transactions with U.S. citizens, nationals or entities under applicable U.S. laws and regulations including, but not limited to, regulations issued by the U.S. Office of Foreign Assets Control (“OFAC”). In addition, you are not, nor is Customer acting on behalf of, any person or entity that is a Specially Designated National (“SDN”), as OFAC may so designate from time to time. In addition to all other rights and remedies available to Web Loft under this Agreement and at law and in equity, you and/or Customer’s breach of this Section will result in immediate termination of the Agreement and forfeiture of any and all Services or amounts previously provided, paid and/or owed to Customer under this Agreement.

25. U.S. GOVERNMENT USERS

In the event any Web Loft Software is provided by Web Loft to a U.S. Government User, the Software and accompanying documentation which are used as part of the Web Loft Service are “commercial items,” as such terms are defined at 48 C.F.R. 2.101 (Revised Oct 2002), consisting of “commercial computer software” and “commercial computer software documentation,” as such terms are used in 48 C.F.R. 12.212 (Revised Oct 2002) and is provided to the U.S. Government only as a commercial end item. Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (Revised Oct 2002), all U.S. Government entities acquiring the use of the Service and accompanying documentation only have those rights set forth herein.

26. SURVIVAL

In the event of termination of the Agreement, Sections 1 (Introduction), 2 (Services), 3 (Fees and Payments, Term & Renewals), 4 (Termination), 5 (Ownership), 6 (Customer Responsibilities), 8 (Account Access), 9 (Privacy, Disclosure and Use of Information), 10 (Disclaimer), 11 (Limitation of Liability), 12 (Non-Disparagement), 13 (Non-Solicitation), 14 (Indemnification), 15 (Waiver), 16 (Severability), 20 (Conflicts with Other Agreements), 21 (Assignment), 22 (Agency), 23 (No Third Party Beneficiaries), 24 (Export Restrictions and Prohibited Transactions), 25 (U.S. Government Users), 26 (Survival), 27 (Governing Law and Venue) and 28 (Notice) of this Agreement survives such expiration or termination, as applicable, as well shall any other provision of this Agreement that indicates such survival or so survives by necessary implication.

27. GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the United States of America and the State of Texas, without regard to conflict of law principles, as if the Agreement was a contract wholly entered into and wholly performed within Dallas County in the state of Texas. The application of the United Nations Convention of Contracts for the International Sale of Goods (“CISG”) is expressly excluded.

YOU AGREE THAT ANY JUDICIAL PROCEEDING RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE SERVICES WILL BE INSTITUTED ONLY IN A FEDERAL OR STATE COURT OF COMPETENT JURISDICTION IN DALLAS COUNTY IN THE STATE OF TEXAS. YOU CONSENT TO THE PERSONAL JURISDICTION OF SUCH COURT AND WAIVE THE RIGHT TO CHALLENGE THE JURISDICTION OF SUCH COURT ON GROUNDS OF LACK OF PERSONAL JURISDICTION OR FORUM NON CONVENIENS, OR TO OTHERWISE SEEK A CHANGE OF VENUE. YOU AGREE TO WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION THAT TAKES PLACE RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE SERVICES (ACCEPTANCE OF THIS AGREEMENT, MEANS YOU NO LONGER HAVE THE RIGHT TO A JURY TRIAL). YOU ALSO AGREE TO WAIVE THE RIGHT TO FILE A CLASS ACTION CLAIM RELATING TO OR ARISING UNDER THIS AGREEMENT OR THE SERVICES.

In the event a claim is brought against Web Loft in a foreign jurisdiction (a court other than in Dallas County, Texas), Web Loft will file to have the claim dismissed per your acceptance of this Agreement existing at the time of your purchase of Services and your continued use of the Services as evidence of acceptance of the Agreement and this Section.

The Parties agree that the foregoing obligation is independent from all other obligations herein. You acknowledge that, in the event you initiate a judicial proceeding in any court other than one of the aforementioned courts in Dallas County, Texas, Web Loft may, and likely will, incur costs and expenses, including attorneys’ fees, to enforce the agreement of the Parties regarding the court where litigation relating to or arising out of this Agreement or the Services shall be instituted. You expressly agree that Customer will reimburse Web Loft for any such costs and expenses, including, but not limited to, attorneys’ fees, incurred by Web Loft within ten (10) days of receiving a written demand from Web Loft for such reimbursement. You further agree that if you do not timely reimburse Web Loft within ten (10) days of receiving a written demand for reimbursement, you will be responsible for, and agree to pay, all costs and expenses, including, but not limited to, attorneys’ fees, incurred by Web Loft in seeking to collect or recover from you the amount reimbursable by you under this Section.

28. NOTICE

All mail Notices from Web Loft to you are deemed effective when: (i) sent by certified mail, return receipt requested or by Federal Express or other recognized overnight delivery service to your last known mailing address; (ii) sent via e-mail to your last known Customer contact e-mail address; or (iii) sent via fax to your last known fax number.

When you provide contact information to Web Loft, you agree that Web Loft may use this information to contact you in any format or manner Web Loft chooses. Web Loft may, but has no obligation to, send a single notice by various means of delivery (i.e., fax, e-mail, certified mail or express mail). In no event shall Web Loft be liable to you for choosing to send notice in one manner or format over another.

You authorize Web Loft to contact you via the contact information provided by you that Web Loft deems is of potential interest to you. Notices and announcements may include commercial e-mails, telephone solicitations and other notices describing changes, upgrades, new products and services or other information pertaining to Internet security or to enhance your identity on the Internet and/or other relevant matters.

You authorize Web Loft to record and/or maintain a record of any communications between you and Web Loft, including but not limited to communications by email and telephone.

Date Last Modified: October 8, 2018