

THE INFORMATION IN THIS BOX IS NOT A PART OF THE CONTRACT AND IS FOR COUNTY USE ONLY



Contract Number

22524

SAP Number

### Innovation and Technology Department

<b>Department Contract Representative</b>	Jennifer Mancebo
<b>Telephone Number</b>	909-388-5579
<b>Contractor</b>	Web.com
<b>Contractor Representative</b>	
<b>Telephone Number</b>	470-777-3073
<b>Contract Term</b>	June 28, 2022, continuing until terminated
<b>Original Contract Amount</b>	Non-financial
<b>Amendment Amount</b>	N/A
<b>Total Contract Amount</b>	Non-financial
<b>Cost Center</b>	1200604048

**Briefly describe the general nature of the contract:** *Master Services Agreement, including non-standard terms, with Web.com Group, Inc., for domain name registration services for purchase amounts as authorized by County Policy for the period beginning June 28, 2022 and continuing until terminated*

**FOR COUNTY USE ONLY**

Approved as to Legal Form ▶ <u>Bonnie Uphold</u> Bonnie Uphold, County Counsel	Reviewed for Contract Compliance ▶ _____ Date _____	Reviewed/Approved by Department ▶ _____ Date _____
Date <u>5-27-2022</u>		

# **WEB.COM MASTER SERVICES AGREEMENT**

Date Last Modified: February 13, 2019

## **1. INTRODUCTION**

THIS SERVICES AGREEMENT (the "Agreement" and/or "Terms and Conditions"), as amended from time to time by Web.com Group, Inc., a Delaware corporation, its subsidiaries, affiliates, predecessors, successors and assigns (the terms "Web.com," "us," "we" and/or "our" shall refer to Web.com), between you (the terms "Customer," "you" and/or "your" shall refer to the individual, entity or organization that accepts this Agreement, has access to your account or uses the Services) and Web.com, 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. You and Web.com 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.

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.com from time to time and are incorporated herein by reference. You may also elect to purchase additional Services (the "Additional Services") from Web.com, our partners and/or other third parties, which may have their own service agreements or other related terms and conditions, and it is your obligation to review, accept and abide by those service agreements or other related terms and conditions, as well as this Agreement.

Web.com agrees to comply in all material respects with the Payment Card Industry Data Security Standard ("PCI-DSS") to the extent applicable to Web.com and to the extent Web.com is storing, processing, or transmitting any "Cardholder Data" or "Sensitive Authentication Data" (as those defined under the PCI-DSS) in connection with the Services.

## **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 and a website builder 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 Web.com Services provided as part of the bundled package. See Section 4 (Termination) for additional details on this subject. Web.com further reserves the right to modify the Services, at our sole and absolute discretion, either temporarily or permanently, at any time or from time to time, with or without notice to you. You agree that Web.com shall not be liable to you or any third party for any such modification of the Services and that your continued use of the modified Services, and/or continued access to the modified Services, constitutes your acceptance of any such modifications.

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 or affiliates selected by Web.com in its sole and absolute discretion. As a part of your Services, Web.com 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.com Services is 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.com. You understand and agree that Web.com 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.com 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.com all applicable prices and fees as designated in the related order process, 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, as required by applicable law, or as such prices and fees are billed

by Web.com under an invoice or order confirmation for Services issued to a Customer that expressly permits payment within thirty (30) days after Web.com has sent the Customer such invoice or order confirmation ("Net-30 Customers"). Web.com may require a Customer to successfully complete a credit application prior to such Customer qualifying to become a Net-30 Customer.

If you require Additional Services, then additional prices and fees will apply pursuant to then current rates, which are also subject to change in accordance with this Agreement. You are responsible for payment of all applicable taxes (other than based on Web.com's income) including but not limited to sales tax, use tax, value added tax ("VAT"), and other taxes and governmental charges, whether federal, state or foreign as well as all 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.com income) related to Web.com services or payments made by you hereunder. All payments of prices and fees for Web.com Services shall be made in U.S. dollars. Taxes will be calculated based on where you receive services determined by your customer address. All taxes charged will be reflected in your invoice upon payment. Although Web.com may display pricing in various currencies, transaction processing is supported only in U.S. dollars and the pricing displayed during the checkout process will be an estimated conversion price at the time of purchase. 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.com 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.com 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 VAT based on the country indicated in the account holder's address information associated with your account. Set up prices and fees, if any, will become payable on the applicable effective date for the applicable Services.

Unless otherwise stipulated in the related 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.com and must promptly inform Web.com of any changes or updates to the method of payment. By submitting an order for Services, you authorize Web.com to charge the order to the Account or to otherwise immediately bill you for the Services. You acknowledge and agree that unless otherwise expressly stipulated in the 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.com 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.com, all installments must be received on or before the applicable due date. If you qualify, we may, at our sole and absolute discretion, extend payment terms to you under our Business Account Credit Program.

Unless otherwise specified herein, on our website or in the applicable order process, each Web.com Service is for a one-year initial term and renewable thereafter for successive terms. Any Web.com Service that provides for a monthly billing cycle may be billed every four (4) weeks. Any renewal of your Services with us 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 re-registration, the domain name registry's acceptance of your domain name registration. Upon prior notice, Web.com may also charge an "Account Maintenance Fee" to maintain your active account. 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 the 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 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 supplemental service and product agreements to this Agreement, on our website or as otherwise outlined in the applicable order process. Services to which you subscribe to 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 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 Services with Web.com, you must call our Customer Service, or you may be able to turn off such auto-renew service utilizing the online Account Manager 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 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.com and must promptly inform Web.com of any changes thereto (e.g., change of expiration date or account number). You acknowledge and agree that Web.com may extend the expiration date on 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 the Services are renewed. Web.com 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 the 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 Services, you acknowledge and agree you are responsible for actively renewing your 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 Services. If any 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.com 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.com's rights hereunder, should any fee payment become delinquent, Web.com may suspend or cancel your Services; provided, however, related charges will continue to accrue. You acknowledge and agree that Web.com is not responsible whatsoever for any effect the suspension of Services might have. If Web.com provides any Service discount to you and you default on payments or obligations as outlined herein, Web.com 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.com 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 costs, litigation and attorneys' fees. A \$20.00 (Twenty 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 Services terminated for nonpayment. Web.com 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.com. If for any reason Web.com is unable to charge your Account or other payment method for the full amount owed for the Services provided, or if Web.com 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 personal time or attention; (ii) UDRP actions(s) in connection with your domain name(s) and/or disputes that require accounting or legal services, whether performed by Web.com staff or by outside firms retained by us; (iii) recouping any and all costs and fees, including the cost of Services, incurred by Web.com 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.com.

CUSTOMER UNDERSTANDS AND AGREES THAT ALL WEB.COM FEES AND CHARGES ARE NONREFUNDABLE AND THAT WEB.COM MAY CHANGE ANY PRICE, FEE, RATE OR PLAN AT ANY TIME UPON NOTICE TO CUSTOMER IN ACCORDANCE WITH SECTION 26 (NOTICE) OF THIS AGREEMENT.

#### 4. TERMINATION

A. Generally. Web.com may terminate this Agreement immediately for any or no reason and without notice to you. Without limiting the foregoing, Web.com reserves the right to suspend or terminate all Services immediately without notice to you if Web.com 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 this Agreement and the Services by calling Web.com Customer Service, whereby this termination request may be recorded, and the Services will terminate as of the end of the applicable, current billing period. 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. If you order any Services by telephone and do not agree to be legally bound by these Terms and Conditions at that time, you must notify Web.com within seventy-two (72) hours from the time that Web.com has sent you a welcome e-mail to your account e-mail address on record, that you desire to cancel such Services, whereby the Services will be cancelled, and a refund of any payments or fees already paid to Web.com with respect to the order of the Services will be issued, with no further obligation by either Party. Your failure to notify Web.com of cancellation of any Services as described above will indicate that you acknowledge and agree that you have read and understood these Terms and Conditions and agree to be legally bound by them.

Except as otherwise expressly set forth herein or on our website, Web.com will cease charging your credit card, if applicable, for any monthly service fees as of the expiration of the billing cycle in which the termination is effective. Unless otherwise specified in writing by Web.com, 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 (in the case of a monthly or annual subscription being paid over time, as provided in various supplemental service and product agreements). If termination of this Agreement is due to your default hereunder, you shall bear all costs of such termination, including any reasonable costs Web.com incurs in closing your account and you further agree to pay any and all costs incurred by Web.com 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. In addition to the terms set forth herein, certain Web.com Services may have additional terms regarding termination, which are set forth in the applicable supplemental service and/or product agreements. Moreover, should you or we cancel or terminate your Services at any time prior to the completion of the applicable term, such cancellation or termination may result in our application of an early termination fee charged to your account, in our sole and absolute discretion and without notice to you.

B. Termination of Bundled Services. In addition to the Terms and Conditions set forth herein, if you purchase Web.com 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.com 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.com under this Agreement (but not including any domain names you may have registered,

either with Web.com 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.com 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.

C. Complimentary Upgrades and Services. Web.com may, from time to time and at our sole and absolute discretion, offer Complimentary services or upgrades to our customers including e-mail, website hosting or other Services to our customers. Customers are required to use these Services regularly to keep the accounts active, and Web.com reserves the right to terminate complimentary accounts that remain idle for a period of thirty (30) days or more. Complimentary Services may not be provisioned until such time as the Customer configures the account and logs in for the first time. It is your sole responsibility to keep your complimentary Service in active status by regularly logging into your account. Complimentary upgrades and services may be temporary in nature and/or require you to renew the service at the end of the designated complimentary time period at the then-current price for continued use.

## 5. OWNERSHIP

A. Generally. Except as otherwise set forth herein, 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.com Services identified herein (collectively, "Web.com Intellectual Property Rights") are owned by Web.com or its licensors, and you agree to make no claim of interest in or ownership of any such Web.com Intellectual Property Rights. You acknowledge and agree that no title to the Web.com Intellectual Property Rights is transferred to you, and that you do not obtain any rights, express or implied, in Web.com'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.com and all right, title and interest in and to each such derivative work automatically vests in Web.com. Web.com has no obligation to grant you any right in any such derivative work.

B. Software Ownership and Licenses. Any software provided by Web.com under this Agreement ("Software") and all worldwide intellectual property rights therein are the exclusive property of Web.com. All rights in and to the Software not expressly granted to you in this Agreement are reserved by Web.com. You acknowledge that the Software and its structure, organization and source code constitute valuable trade secrets of Web.com. 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 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 Software. In the event of expiration or termination of this Agreement for any reason, the Software licenses granted under this Agreement will automatically and immediately cease and you must destroy all copies of the Software or related documentation in your possession.

"Background Technology" means computer programming and formatting code or operating instructions developed by or for Web.com 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 the 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.com. 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.com 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.com 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.com 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 Software or in conjunction with certain Services, Web.com 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.com for use under this Agreement (the "Web.com Marks"). The Web.com Marks are solely for use in the display on those locations on your Website's webpages as designated by Web.com in its sole and absolute discretion, and solely in accordance with any Web.com Trademark Use Policy, which is incorporated herein by reference and that Web.com may periodically change from time to time without notice to you. Web.com grants you no rights whatsoever in the Web.com Marks other than those expressly granted in this Section. You acknowledge and agree to Web.com's exclusive ownership of the Web.com 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.com Marks or in such a way as to create combination marks with the Web.com Marks. At Web.com's request, and in its sole and absolute discretion, you must immediately discontinue any use and display of the Web.com 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.com with regard to any other trademarks, service marks or trade names owned by Web.com, its subsidiaries or affiliates.

D. Ownership of Data. You acknowledge and agree that Web.com 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.com 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.com database; and (v) any other information we generate or obtain in connection with the provision of the Services. Web.com 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.com databases as set forth in this Section.

E. Use and Ownership of Images. The Services may contain, utilize or otherwise involve photo images (the "Images") and as such Web.com may provide the Images to you in the process of providing the Services. The Images are either owned by Web.com or licensed from a third party. Unless otherwise stipulated by Web.com, your use of the 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 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 Images for use or distribution separately or detached from a product or webpage. For example, the 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 Images (including digital files) as part of work product, but you are not permitted to use the Images separately or as part of any other product;
- ii. back up, copy, or archive the Images as necessary for internal use, and only as necessary for that use. Any copy or archive you make must include the 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 Images that are integral to your work product and without which the product could not be completed.

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

- i. create scandalous, obscene, defamatory or immoral works using the Images, nor use the Images for any other purpose which is prohibited by law;
- ii. use the Images or any part of it as part of a trademark, service mark or logo. Web.com and those third parties from whom they have licensed images retain the full rights to the Images, and therefore you cannot establish their own rights over any part of the Images;
- iii. remove any copyright or trademark from any place where it appears on the Images or its accompanying materials;
- iv. rent, lease, sublicense or lend the Images, or a copy thereof, to another person or legal entity without the express written consent of Web.com;
- v. transfer the rights to the Images, accompanying materials or storage media for the Images, except as specifically provided for in this Agreement. All other rights are reserved by Web.com and those third parties from whom Web.com has licensed images;
- vi. reverse engineer, decompile, or disassemble any part of the Images, accompanying materials or storage media for the Images, subject to applicable law;
- vii. copy or reproduce the Images, accompanying materials or storage media for the Images;
- viii. display the 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 Images in violation of this Agreement;
- ix. re-sell, distribute or sub-license the Images, storage media for the Images, or the rights to use the Images to anyone for any purpose, except as specifically provided for in this Agreement; or
- x. use the Images in any way that could be considered defamatory, libelous, pornographic, immoral, obscene or fraudulent, either by making physical changes to the Images or in the juxtaposition of the Images to accompanying text. You agree not to use Images as part of any use involving sensitive subject matter, as determined by Web.com in its sole and absolute discretion, including, but not limited to, the following sensitive subjects: all sexual issues, sexually transmitted diseases, substance abuse, alcohol, tobacco, cancer, mental ailments, alternative lifestyle issues and physical or mental abuse, without advance written consent from Web.com and any model in such Image. Sensitive subject usage pertains to both commercial and editorial uses.

## **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.com'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.com;

- ii. providing Web.com 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.com 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;
- iv. contacting Web.com 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.com with unrestricted access to the Website and/or related accounts as needed for Web.com to provide the Services hereunder;
- vi. granting to Web.com 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.com to make a reasonable number of archival or backup copies of the Website as deemed necessary by Web.com 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;
- x. reviewing and adhering to any end user-facing policies and/or terms provided by Web.com for use on your Website (*i.e.*, a customer privacy policy), and further revising any such policy to accurately reflect your business practices; and
- xi. contacting Web.com with notice of your decision to cancel or discontinue the Services. IF NO SUCH NOTIFICATION IS GIVEN TO WEB.COM BY YOU, WEB.COM WILL ASSUME YOU ARE SATISFIED WITH AND ACCEPT ALL SERVICES, AND WEB.COM WILL BILL ANY RELATED SERVICE FEES DIRECTLY TO YOUR TELEPHONE BILL, CREDIT CARD, AUTOMATED CLEARING HOUSE (ACH), ACCOUNT, OR OTHER PAYMENT METHOD PROVIDED OR OTHERWISE IDENTIFIED BY YOU.

Depending on the Services you elect to receive, you may also be responsible for establishing and maintaining a commercial relationship with a financial institution or money transmitter such as a credit card processor, bank or PayPal. The terms of any such relationship are between you and that entity and such terms may be more restrictive or place limits on your use of the Services; you should therefore contact those entities for more information regarding such terms where applicable.

B. Website Control and Content. Unless otherwise expressly stated herein, 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. Automatic backup services may be available for database backup and website backup depending on the Services you elect to receive. For backup on demand services in database backup and website backup, all backups done by you will be counted towards existing storage capacity elected in the Services you receive. Backup services are not guaranteed and you agree that Web.com has no obligation to hold backup information for a specified period of time nor is all backup information guaranteed to be available at all times. If backup services are not available to you or you elect to opt out of the backup services, you agree that Web.com 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.com 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. When acting as a conduit, Web.com will give you discretion over your Content provided it is compatible and interoperable with any Services or Web.com Software provided under this Agreement. 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.com.

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.com and its Software are acting only as passive conduits for the publishing and/or distribution of such products, services or Content. Web.com 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.com provides Services to you pursuant to this Agreement, you hereby grant to Web.com 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.com reserves the right to use your domain name and your Website screen shots in Web.com'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.com 's copyright agent under the DMCA, you acknowledge and agree that Web.com may take all necessary action as required under the DMCA in its sole and absolute discretion, including removing Content from your Website.

C. 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 in trust and confidence and use and disclose such information solely in accordance with your privacy policy. You must post, maintain and adhere to 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 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 notifying your customers that your Website is hosted by Web.com and that Web.com has access to aggregated information about customers of your Website in order for Web.com to analyze performance and make improvements to Web.com products.

D. Accurate Information. You agree to: (1) provide certain true, current, complete and accurate information about you as required by the application process; and (2) maintain and update the information you provided to us when purchasing our Services 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 regarding your account and our Services. You agree that Web.com (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.com 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.

## **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 under-age 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;
- 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 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.com, 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. To the extent Customer gathers any personal information about visitors to your Website, Customer shall not share that personal information with any third party without first obtaining a visitor's consent;
- x. 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;
- xi. 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;
- xii. Customer shall use the Services in complete accordance with Web.com's [Acceptable Use Policy](#);
- xiii. 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
- xiv. 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.com 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, including the Uniform Domain Name Dispute Resolution ("UDRP") process. (Click [here](#) for a current copy of the UDRP). 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.com Services or to modify your account, you may be required to establish an account and obtain a login name, account number, password and/or passphrase. You authorize us to process any and all account transactions initiated through the use of your password and/or passphrase. You are solely responsible for maintaining the confidentiality of your password and passphrase. You must immediately notify us of any unauthorized use of your password or passphrase and you are responsible for any unauthorized activities, charges and/or liabilities made through your password or passphrase. In no event will we be liable for the unauthorized use or misuse of your login name, account number, password or passphrase, or for the unauthorized access to your account(s) as a result of same. You agree that we may log off, terminate, or cancel any account that is inactive for an extended period of time.

## **9. PRIVACY, DISCLOSURE AND USE OF INFORMATION**

Our Privacy Policy is located on our website at <https://legal.web.com/Document/Get/PrivacyPolicy>. The Privacy Policy sets forth your rights and responsibilities and our rights and responsibilities with regard to your personal information. You agree that we, in our sole and absolute discretion, may modify our Privacy Policy. We will post any such revised Privacy Policy on our website and any such Privacy Policy is effective upon posting. You agree to periodically review our websites, including the current version of our Privacy Policy. You agree that, by using our Services after modifications to the Privacy Policy become effective, you have agreed to these modifications. You acknowledge that if you do not agree to any such modification, you may terminate this Agreement. We will not refund any fees paid by you if you terminate your Agreement with us except as otherwise expressly provided in one or more of the supplemental service and product agreements. We will not process the personal data that we collect from you in a way incompatible with the purposes and other limitations described in our Privacy Policy. 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 pursuant to Web.com's [Privacy Policy](#), Web.com 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.com, our users or others, whether during or after the term of your use of the Services. Web.com 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.com 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. One of the ways that Web.com may make some or all of the information you provide available to the public or third parties is by way of bulk WHOIS data access provided to third parties who enter into a bulk WHOIS data access agreement with Web.com.

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 registration of a domain name or use of any Services (including any updates to such information), whether during or after the term of your registration of a domain name or other 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.com.

We will not process data about any identified or identifiable natural person that we obtain from you in a way incompatible with the purposes and other limitations which we describe in this Agreement.

Web.com will take reasonable precautions to protect the information it obtains from you from our loss, misuse, unauthorized access or disclosure or use, or alteration or destruction, of that information. You acknowledge and agree that Web.com shall have no liability to you or any third party to the extent such reasonable precautions are taken.

In the event that (i) in applying for any Services or the registration of a domain name you are providing information about a third party or (ii) you license a domain name registered in your name to 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 domain name registration or other Services. You further acknowledge and agree that your failure to respond for over fifteen (15) calendar days to an inquiry by Web.com concerning the accuracy of contact information details associated with your domain name registration shall constitute a material breach of this Agreement and is a sufficient basis for the cancellation of your domain name registration.

Without limiting your obligations under this Section of the Agreement, you agree that Web.com (itself or through its third-party service providers) is authorized, but not obligated, to use certain address or billing correction services to update and/or to change any address or billing information associated with your account (including, without limitation, registrant address, billing contact address and credit card information), and you agree that Web.com may use such changed information for all purposes in connection with your account (including the sending of renewal notices, invoices, order confirmations or for automatic renewal charges).

You acknowledge and agree that communications with us are not private and may be published either in their entirety or in edited form at any time, at the sole and absolute discretion of Web.com.

## **10. HIPAA**

If Customer is a Covered Entity under The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and if Web.com is a Business Associate of Covered Entity under the HIPAA Privacy Regulations, the HIPAA Security Regulations and the HITECH Standards, then the terms of the Business Associate Agreement located at <https://legal.web.com/Document/Get/BusinessAssociateAgreement> are hereby incorporated by reference herein.

## **11. DISCLAIMER**

YOU AGKNOWLEDGE 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.COM 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.COM DOES NOT WARRANT THAT THE SERVICES AND/OR ANY INFORMATION OBTAINED THEREBY WILL BE COMPLETE, ACCURATE, UNINTERRUPTED, SECURE OR ERROR FREE. WEB.COM FURTHER MAKES NO WARRANTY THAT THE SERVICES WILL MEET YOUR REQUIREMENTS, NOR DOES WEB.COM MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES.

## **12. LIMITATION OF LIABILITY**

You acknowledge and agree that Web.com 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. DATA NON-DELIVERY, MIS-DELIVERY, CORRUPTION, DESTRUCTION OR OTHER MODIFICATION;
- vi. EVENTS BEYOND WEB.COM'S AND ITS SUBCONTRACTORS' CONTROL;
- vii. APPLICATION OF ANY APPLICABLE LAW, REGULATION OR WEB.COM POLICY (INCLUDING, BUT NOT LIMITED TO, ANY RELEVANT DISPUTE POLICY OR ANY OTHER ICANN OR SIMILAR GOVERNMENTAL OR SUCCESSOR ORGANIZATION ADOPTED POLICIES);
- viii. PROCESSING OF YOUR DOMAIN NAME APPLICATION OR OTHER SERVICE APPLICATION;
- 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, nondeliveries, mis-deliveries or service interruptions caused by Web.com's own negligence or your errors or omissions, or due to inadvertent release or disclosure of information sent by service interruptions caused by Web.com'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 YOUR ACCOUNT NUMBER, PASSWORD OR SECURITY AUTHENTICATION OPTION;
- 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;
- xviii. LOSS OR LIABILITY THAT YOU MAY INCUR IN CONNECTION WITH WEB.COM'S PROCESSING OF YOUR APPLICATION FOR WEB.COM'S SERVICES, THE PROCESSING OF ANY AUTHORIZED MODIFICATION TO YOUR DOMAIN NAME RECORD, OR YOUR AGENT'S FAILURE TO PAY ANY FEES, INCLUDING THE INITIAL REGISTRATION FEE OR RE-REGISTRATION FEE; AND
- xix. ANY OTHER MATTER RELATING TO YOUR USE OF THE SERVICES.

Web.com 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.com 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.com website may contain links to other Internet websites or resources (including partner websites or third-party advertising on a Web.com website). You acknowledge and agree that neither Web.com 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.com or a third party endorses any of the linked websites, and you agree to use the links at your own risk.

Additionally, Web.com 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.com has been advised of the possibility of such damages.

Web.com'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 hundred dollars (\$500.00), 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.com'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.com'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.com's Services must be filed within one (1) year after such claim or cause of action initially arose or 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.com 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.

### **13. INDEMNIFICATION**

You agree to release, indemnify, defend and hold harmless Web.com and Web.com's officers, directors, employees, agents, subsidiaries, 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.com 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;
- v. Customer's violation of any third-party rights; or
- vi. Customer's application for and registration of, renewal of, or failure to renew a particular domain name.

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

When Web.com is threatened with a lawsuit or is sued by a third party, Web.com may seek written assurances from you concerning your promise to indemnify Web.com. Such assurances may, without limitation, be in the form of a deposit of money by you to Web.com or its representatives to cover Web.com'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.com to be a material breach of this Agreement. Web.com shall have the right to participate in any defense by you of a third-party claim related to your use of any of Web.com's Services, with counsel of Web.com's choice. Web.com shall reasonably cooperate in the defense at your request and expense. You shall have sole and absolute responsibility to defend Web.com against any claim, but you must receive Web.com's prior written consent regarding any related settlement.

The use of Web.com'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.com 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.com 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.com harmless from any damages it may suffer resulting from any violation of the export control laws of the United States.

#### **14. WAIVER**

No waiver of any provision of this Agreement is effective unless it is in writing and signed by an authorized representative of Web.com. Web.com'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.com 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.com 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.com 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.

#### **15. 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.com 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.com 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.

#### **16. 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 the Party relying upon this Section takes all steps reasonably necessary under the circumstances to mitigate the effects of the force majeure event upon which such notice is based; provided further, 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.com may immediately terminate this Agreement and will have no liability therefrom.

#### **17. ENTIRE AGREEMENT**

This Agreement, as well as any additional Web.com Terms and Conditions, rules, policies and service agreements, together with all modifications thereto, constitute the entire agreement between you and Web.com 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.com (including, but not limited to, any prior versions of this Agreement). You may not waive, modify or supplement this Agreement, in whole or in part, except for written permission or amendment by Web.com. Web.com reserves the right, in its sole and absolute discretion, to unilaterally change, modify and/or revise the Agreement, and any incorporated policies, agreements or notices, from time to time. Such changes, modifications or revisions shall be effective immediately upon posting to this website, and are provided to you via the Notice provisions set forth in Section 26 below (Notice) and it is implied you have accepted, and to be apprised of and bound by, any such modifications or revisions to the Agreement through your continued use of the Services.

#### **18. 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.

#### **19. CONFLICTS WITH OTHER AGREEMENTS**

In the event of any conflict between this Agreement and the Terms and Conditions governing your use of any Services provided by Web.com'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.com.

#### **20. 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 domain, website, product or service), without the prior written consent of Web.com. Any attempted assignment in violation of the foregoing provision will be null and void and of no force or effect whatsoever. Web.com 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 the Customer. This Agreement is binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

#### **21. AGENCY**

This Agreement does not create any agency, employment, partnership, joint venture, franchise or other similar or special relationship between you and Web.com. 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.com is limited to the responsibilities and obligations of both Parties as established in this entire Agreement.

## **22. 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.

## **23. 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.com 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.com 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.

## **24. U.S. GOVERNMENT USERS**

In the event any Software is provided by Web.com to a U.S. Government User, the Software and accompanying documentation which are used as part of the Web.com 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.

## **25. SURVIVAL**

In the event of termination of the Agreement, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 19, 20, 21, 23, 24, 25 and 26 of this Agreement survives such expiration or termination, as applicable.

## **26. GOVERNING LAW AND VENUE**

Except as otherwise set forth in UDRP or any similar ccTLD policy with respect to any dispute over a domain name registration, this Agreement shall be governed by the laws of the United States of America and the State of Florida, without regard to conflict of law principles, as if the Agreement was a contract wholly entered into and wholly performed within Duval County in the state of Florida. The application of the United Nations Convention of Contracts for the International Sale of Goods ("CISG") is expressly excluded.

Except as otherwise set forth in the UDRP or any similar ccTLD policy with respect to any dispute over a domain name registration, 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 Duval County in the State of Florida. 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.com in a foreign jurisdiction (a court other than in Duval County, Florida), Web.com 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 Duval County, Florida, Web.com 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.com for any such costs and expenses, including, but not limited to, attorneys' fees, incurred by Web.com within ten (10) days of receiving a written demand from Web.com for such reimbursement. You further agree that if you do not timely reimburse Web.com 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.com in seeking to collect or recover from you the amount reimbursable by you under this Section.

## **27. NOTICE**

All mail Notices from Web.com 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; (iii) sent via fax to your last known fax number; or (iv) posted on <https://legal.web.com> and/or any of the applicable pages linked thereto, as updated from time to time.

When you provide contact information to Web.com, you expressly agree that Web.com may use this information to contact you in any format or manner Web.com chooses (including but not limited to by telephone, fax, SMS text, email or direct mail). Web.com 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.com be liable to you for choosing to send notice in one manner or format over another.

You authorize Web.com to contact you via the contact information provided in your account information that Web.com 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 shall give Notice to Web.com by contacting Web.com's Customer Service at the phone number listed on Web.com's Website or otherwise provided by Web.com.



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