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## Website Hosting Agreement

This Web Hosting Agreement governs your purchase and use, in any manner, of all Web site hosting services, and further describes the terms and conditions that apply to such purchase and use of the Services. For the purposes of this Contract, the Hosting Services include the hosting of one or more websites. You must accept the terms of this Contract in order to use the Services. By purchasing these services and using the services, you acknowledge that you have read this contract and agree to be bound by the terms and conditions contained herein as well as all policies and guidelines incorporated by reference. Burgess Technology Services reserves the right to change or modify any of the terms and conditions contained in this Contract and any policy or guideline incorporated by reference at any time and from time to time at its sole discretion, and to determine whether and when any such changes apply to both existing and future customers. Any changes or modification will be effective upon receipt of the revisions by the customer. Your continued use of the Services following your receipt of any changes or modifications will constitute your acceptance of such changes or modifications.

### 1. *Use of Services*

**1.1. Applicable Policies.** The Burgess Technology Services Acceptable Use Policy and Liquid Web Acceptable Use Policy govern the general policies and procedures for use of the Services. The Burgess Technology Services Acceptable Use Policy is posted on Burgess Technology Services' Web site at <http://www.burgesstechnologyservices.com/documents> and may be updated from time-to-time. The Liquid Web Acceptable Use Policy can be found at: <https://www.liquidweb.com/about-us/policies/acceptable-use-policy/>. You should carefully read the Acceptable Use Policies. By using the services, you agree to be bound by the terms of the Acceptable Use Policies, and any modifications thereto. Burgess Technology Services reserves the right to terminate your account for any violation of the Acceptable Use policies or this contract. Termination fees will apply for violations of the Acceptable Use policies. Please refer to each Acceptable Use Policy for more specific information.

**1.2. Material and Product Requirements.** Unless otherwise specified, you must ensure that all material and data placed on Burgess Technology Services' equipment is in a condition that is "server-ready," which is in a form requiring no additional manipulation by Burgess Technology Services. Burgess Technology Services will make no effort to validate any of this information for content, correctness or usability. In the event that your material is not "server-ready", Burgess Technology Services has the option at any time to reject this material. Burgess Technology Services will notify you of its refusal of the material and afford you the opportunity to amend or modify the material to satisfy the needs and/or requirements of Burgess Technology Services. Use of the Services requires a certain level of knowledge in the use of Internet languages, protocols and software. This level of knowledge varies depending on the anticipated use and desired content of your Web site. Burgess Technology Services has no

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responsibility to provide this knowledge or customer support outside of the Services agreed to by you and Burgess Technology Services.

- 1.3. Bandwidth and Storage Usage.** You agree that use of the Services hereunder will not exceed the bandwidth and web site and email storage usage limits set out in the hosting offering. If you use any bandwidth or storage space in excess of the agreed upon number of megabytes per month, Burgess Technology Services may, in its sole discretion, assess additional charges, suspend the performance of the Service, or terminate this Contract. In the event that Burgess Technology Services elects to take any corrective action, you will not be entitled to a refund of any unused pre-paid fees.
- 1.4. Server Resources.** Burgess Technology Services prohibits any Subscriber Content or activities that use excessive server resources, or may adversely affect any other Customers. Customer understands that they share server resources with other Customers. In order to provide a stable and reliable hosting environment, server resources are limited for each account, which may include CPU and memory usage, number of concurrent processes, number of concurrent port or database connections, total bandwidth usage and disk space allocation.
- 1.5. Domain Names.** As part of the Services, you will provide Burgess Technology Services with a registered domain name or names or Burgess Technology Services will register such domain name(s) selected by you, provided that such domain name is available for registration and does not violate any registration services' policies, or any law or regulation. You agree to promptly reimburse Burgess Technology Services for any fees paid by Burgess Technology Services to a domain registrar with respect to the registration and maintenance of such domain name(s). In the event of any dispute or cause of action arising out of or related to your domain name used in connection with the Services, upon your request, Burgess Technology Services will attempt to register an alternative domain name chosen by you. You agree to be bound by the terms of the national DNS registration authorities to which you become subject upon registration of your domain name. The inability to use a domain name shall not entitle you to a refund by Burgess Technology Services of any fees paid with respect to the registration of such unusable domain name.
- 1.6. Mass Emailing.** Unless otherwise specified in writing, Burgess Technology Services does not allow the use of their services for mass mailings. This includes all mailing lists, legitimate opt-in or not. For these types of mass mailings, a third party mass email service should be used.
- 1.7. No High Risk Use.** You may not use Burgess Hosting Services in any situation where failure or fault of the hosting services could lead to death or serious bodily injury of any person, or to physical or environmental damage. For example, you may not use, or permit any other person to use, Burgess Hosting Services in connection with aircraft or other modes of human mass transportation, nuclear or chemical facilities, or medical life support devices.

## **2. Customer Responsibilities**

- 2.1.** Customer will cooperate fully with Burgess Technology Services in connection with Burgess Technology Services' performance of Services.
- 2.2.** Customer will provide Burgess Technology Services with their most current and accurate contact information, including but not limited to mailing address, telephone, and email address.
- 2.3.** Customer is solely responsible for providing its users with any required disclosures on their website.
- 2.4.** Customer is solely responsible for making back-up copies of Subscriber Content.
- 2.5.** In the event of a domain transfer, customer is solely responsible for contacting and working with their domain registrar to transfer their domain to Burgess Technology Services, unless the customer has contracted with Burgess Technology Services to provide assistance with the transfer. Burgess Technology Services will provide any relevant DNS information required for domain transfers.
- 2.6.** The customer is solely responsible for taking action to renew their domain name. Upon request, Burgess Technology Services can handle domain name renewals for the customer. There is an additional cost if Burgess handles the domain name renewal.
- 2.7.** Payment Terms: Burgess Technology Services offers the option of monthly, quarterly or yearly billing for Website Hosting. At the time of initiation or renewal of service, the Customer will receive an invoice, payment of which is due net 30 days. Any payments not received on time may result in the Customer being declared in default of this Agreement, at the discretion of Burgess Technology Services. Late payments will be subject to an eighteen-percent (18%) per annum interest charge and Website Hosting may be terminated.
- 2.8.** Declined Credit Card Payments or Checks Returned for Insufficient Funds: Burgess Technology Services will charge \$30.00 each time a check is returned for insufficient funds or a credit card payment is declined.
- 2.9.** Secure Passwords. The account holder agrees to maintain a secure password to the account. Secure passwords are those that are at least 8 characters long, contain upper and lower case letters, and numbers or other characters, and cannot be found in direct or reverse order in a

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dictionary, without regard to the language of the dictionary.

### **3. Intellectual Property Rights**

**3.1. Your License Grant to Burgess Technology Services** You hereby grant to Burgess Technology Services a non-exclusive, worldwide, and royalty-free license for the Initial Term and the Renewal Term, if applicable, to edit, modify, adapt, translate, exhibit, publish, transmit, participate in the transfer of, reproduce, create derivative works from, distribute, perform, display, and otherwise use your content as necessary for the purposes of rendering and operating the Services to you under this Contract. You expressly (a) grant to Burgess Technology Services a license to cache materials distributed or made available for distribution via the Services, including content supplied by third parties, and (b) agree that such caching is not an infringement of any of your intellectual property rights or any third party's intellectual property rights.

**3.2. Your Warranties and Representations to Burgess Technology Services** You warrant, represent, and covenant to Burgess Technology Services that (a) you are at least eighteen (18) years of age; (b) you possess the legal right and ability to enter into this Contract; (c) you will use the Services only for lawful purposes and in accordance with this Contract and all applicable policies and guidelines; (d) you will be financially responsible for the use of your account; (e) you have acquired or will acquire all authorization(s) necessary for hypertext links to third-party Web sites or other content; (f) you have verified or will verify the accuracy of materials distributed or made available for distribution via the Services, including, without limitation, your content, descriptive claims, warranties, guarantees, nature of business, and address where business is conducted, and (g) your content does not and will not infringe or violate any right of any third party (including any intellectual property rights) or violate any applicable law, regulation or ordinance.

**3.3. Burgess Technology Services Materials and Intellectual Property.** Burgess Technology Services shall also maintain and control ownership of all Internet protocol ("IP") numbers and addresses that may be assigned to you by Burgess Technology Services. Burgess Technology Services reserves, in its sole discretion, the right to change or remove any and all such IP numbers and addresses.

### **4. Disclaimed Warranties**

You acknowledge and agree that Burgess Technology Services exercises no control over, and accepts no responsibility for, the content of the information passing through Burgess Technology Services' host computers, network hubs and points of presence, or the Internet. All services performed hereunder are performed "as is" and without warranty against failure of performance including, without limitation, any failure due to computer hardware or communication systems. Except as expressly provided in this contract, Burgess Technology Services does not make and hereby

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disclaims, and you hereby waive all reliance on, any representations or warranties, arising by law or otherwise, regarding the services, including, without limitation, implied warranties of merchantability, fitness for a particular purpose, non-infringement, or arising from course of dealing, course of performance or usage in trade.

## **5. Limitation and Exclusion of Liability**

**5.1. Limitations.** IN NO EVENT SHALL BURGESS TECHNOLOGY SERVICES OR ITS SUPPLIERS HAVE ANY LIABILITY FOR UNAUTHORIZED ACCESS TO, OR ALTERATION, THEFT OR DESTRUCTION OF INFORMATION DISTRIBUTED OR MADE AVAILABLE FOR DISTRIBUTION VIA THE SERVICES THROUGH ACCIDENT, FRAUDULENT MEANS OR DEVICES. NEITHER BURGESS TECHNOLOGY SERVICES NOR ITS SUPPLIERS SHALL HAVE LIABILITY WITH RESPECT TO BURGESS TECHNOLOGY SERVICES' OBLIGATIONS UNDER THIS CONTRACT OR OTHERWISE FOR CONSEQUENTIAL, EXEMPLARY, SPECIAL, INCIDENTAL, OR PUNITIVE DAMAGES EVEN IF BURGESS TECHNOLOGY SERVICES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN ANY EVENT, THE LIABILITY OF BURGESS TECHNOLOGY SERVICES AND ITS SUPPLIERS TO YOU FOR ANY REASON AND UPON ANY CAUSE OF ACTION SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID TO BURGESS TECHNOLOGY SERVICES BY YOU UNDER THIS CONTRACT DURING THE THREE (3) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH SUCH CLAIM ACCRUED. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE, INCLUDING, WITHOUT LIMITATION, TO BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS. THE FEES FOR THE SERVICES SET BY BURGESS TECHNOLOGY SERVICES HEREUNDER HAVE BEEN AND WILL CONTINUE TO BE BASED UPON THIS ALLOCATION OF RISK. ACCORDINGLY, YOU HEREBY RELEASE BURGESS TECHNOLOGY SERVICES AND ITS SUPPLIERS FROM ANY AND ALL OBLIGATIONS, LIABILITIES, AND CLAIM IN EXCESS OF THE LIMITATION STATED IN THIS SECTION.

**5.2. Interruption of Service.** You hereby acknowledge and agree that Burgess Technology Services and its suppliers will not be liable for any temporary delay, outages or interruptions of the Services. Further, Burgess Technology Services shall not be liable for any delay or failure to perform its obligations under this Contract, where such delay or failure results from any act of God or other cause beyond its reasonable control (including, without limitation, any mechanical, electronic, communications or third-party supplier failure).

**5.3. Software Upgrades.** Burgess Technology Services as needed and at times without notice will need to perform software upgrades, security patches and updates, install bug patches that are made available by our vendors, and other miscellaneous server-related upgrades. Burgess Technology Services shall not be liable for any malfunction, web site error or any other issue that may arise with your site as a result of these upgrades. Further, it is the responsibility of the customer to keep their web site or application current with all the latest standards and specifications.

**5.4. Backup.** Burgess Technology Services maintains a backup of the server(s) for the sole purpose of internal systems administration. Burgess Technology Services advises the Customer that it does not guarantee any storage or backup of Customer's Content. Customer is responsible for providing any storage, backup and archival history support with respect to its Content, whether created by Customer or for Customer by a different party.

## **6. *Web Hosting Fees, Billing and Terms***

**6.1.** Burgess Hosting Fees are dependent upon the Hosting Plan for the site. Billing options include Monthly or Yearly billing.

**6.2.** Terms: This Agreement shall continue for a period of twelve months. If no notification is received as detailed above, the Agreement will automatically renew for another twelve-month period.

## **7. *Indemnification***

You hereby release and hold harmless, and agree to indemnify, Burgess Technology Services and its affiliates and suppliers (and their respective employees, directors and representatives) against any and all claims, actions, proceedings, suits, liabilities, damages, settlements, penalties, fines, costs or expenses (including, without limitation, reasonable attorneys' fees and other litigation expenses) incurred by Burgess Technology Services or its suppliers, arising out of or relating to (a) your violation or breach of any term, condition, representation or warranty of this Contract or any applicable policy or guideline; (b) your improper or illegal use of the Services; or (c) your violation, alleged violation, or misappropriation of any intellectual property right (including, without limitation, trademark, copyright, patent, trade secrets) or non-proprietary right of a third party (including, without limitation, defamation, libel, violation of privacy or publicity.)

## **8. *Confidentiality***

During the term of this agreement and after the term, Burgess Technology Services may not use for any purpose other than for the benefit of Client, or divulge to any third party, any trade secrets, processes, techniques, designs, know-how or other confidential information of Client, including without limitation information about Client customers, former customers, staff, financial data, business records and activities under this agreement. Both during and after the term, Burgess Technology Services shall maintain the strict confidentiality of the Client's confidential information using the same degree of care as BTS affords to its own confidential information of a similar nature which it desires not to be published or disseminated, and in no event less than reasonable care, to prevent the unauthorized use or disclosure of the Client's confidential information.



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