

# TERMS OF SERVICES

Webodesk caters to people from across the Globe and we strive to Safeguard the interest of each client and provide them with the Best possible service.

## 1. OVERVIEW

These terms of service were defined in order to ensure that our services remain of world class quality. Terms of Service or TOS define the rule and regulations for using our web hosting services. All of our services are subject to the terms defined here under. Please read all the terms carefully and make sure you understand and agree to all the terms and conditions in its entirety. Signing up for using Webodesk Service implies that you agree with all these terms and are bound by the same.

## 2. SERVICES

Webodesk provides a number of services to its customers. The services and products provided to you by Webodesk, as set out on our website, are referred to as the Services. We provide the Services to you based on the description of them on our website as of the Effective Date. Should our website change subsequent to the Effective Date, we have no obligation to modify the Services to reflect such a change.

The Services may be provided by third parties. These third parties may have reserved the right to make changes, including material changes, to the services provided by them. We will use commercially reasonable efforts to inform you of those changes. However, you may not terminate this TOS based on such a change by a third party.

### Domain Name Services

We resell domain names. When you apply to register a domain name, your request is transmitted to Resellerclub. You are bound by Resellerclub's domain name registration policies and procedures. These policies and procedures are available here. Because there is often a period of time between your registration request and the actual registration of the domain name, we do not guarantee that your registration domain name will be registered.

We will use commercially reasonable efforts to register or update domain names. However, circumstances beyond our control, such as billing issues, may result in your domain name failing to register, or to lapse. Our liability in such a case is limited by paragraph 12 below. For this reason, it is your obligation to ensure that your domain name does not lapse.

### cPanel

Please review paragraph 2.1.1 of the cPanel End User License Agreement. It is expressly incorporated into this TOS by reference.

## 3. ACCOUNT SETUP

We will setup your account after we have received payment and we and/or our payment partner(s) have screened the order(s) incase of fraud. It is your responsibility to provide us with an email address which is not @ the domain(s) you are signing up under. If there is ever an abuse issue or we need to contact you, the primary email address on file will be used for this purpose. It is your responsibility to ensure the email address on file is current or up to date at all times. Providing false contact information of any kind may result in the termination of your account.

## 4. CONTENT

All services provided by Webodesk may only be used for lawful purposes. This includes, but not limited to: copyrighted material, material we judge to be threatening or obscene. The customer agrees to indemnify and hold harmless Webodesk from any claims resulting from the use of our services.

## Examples of Unacceptable Material:

- ✓ Scam Sites (ex: Ebay/Paypal,CC/Password Scam sites)
- ✓ Mail bombers or any sort of spam sites
- ✓ IRC Bots
- ✓ Warez Sites
- ✓ Hate Sites
- ✓ Roms / Emulators
- ✓ Pirated Software
- ✓ Proxies
- ✓ Hack programs and archives
- ✓ Malicious Scripts
- ✓ Spamming ( Includes Forum Spamming, Black Hat Scripts )
- ✓ Tobacco products
- ✓ Prescription drugs
- ✓ Drugs and drug paraphernalia
- ✓ Weapons (including without limitation, knives, guns, firearms or ammunition)
- ✓ Satellite and cable TV descramblers
- ✓ Pornography, adult material, material which incites violence, hatred, racism or which is considered obscene
- ✓ DOS/DDOS Attacks Scripts (Booters, Botnet, PortScanning, Shell, Stressing Testing etc.)
- ✓ IP Spoofing/ARP attacks
- ✓ Port Scanning, Brute Force Attacks
- ✓ Government IDs and licences including replicas and novelty items and any counterfeit products.
- ✓ Unlicensed or illegal lotteries or gambling services (including without limitation the use of or participation in illegal gambling houses).
- ✓ Unregistered charity services Items which encourage or facilitate illegal activities.
- ✓ Prepaid debit cards or other stored value cards that are not associated with a particular merchant and are not limited to purchases of particular products or services.
- ✓ Third party processing or payment aggregation products or services.
- ✓ Multi-level marketing, pyramid selling or ponzi schemes, matrix programmes or other get rich quick schemes or high yield investment programmes.
- ✓ Goods or services that infringe the intellectual property rights of a third party.
- ✓ Un-coded/miscoded gaming.
- ✓ Timeshares or property reservation payments (On and Off Plan).

## 5. ZERO TOLERANCE SPAM POLICY

I. Webodesk., (“the Company”) maintains a zero tolerance policy for use of its network in any manner associated with the transmission, distribution or delivery of any bulk e-mail, including unsolicited bulk or unsolicited commercial e-mail (“SPAM”). You may not use any our services or network to send SPAM. In addition, e-mail sent, or caused to be sent, to or through our network may not:

- ✓ Use or contain invalid or forged headers;
- ✓ Use or contain invalid or non-existent domain names;
- ✓ Employ any technique to otherwise misrepresent, hide or obscure any information in identifying the point of origin or the transmission path;
- ✓ Use other means of deceptive addressing;
- ✓ Use a third party’s internet domain name, or be relayed from or through a third party’s equipment, without permission of the third party;
- ✓ Contain false or misleading information in the subject line or otherwise contain false or misleading content;
- ✓ Fail to comply with additional technical standards described below;
- ✓ Otherwise violate the Company’s terms and conditions.

II. The Company does not authorize the harvesting, mining or collection of e-mail addresses or other information from or through its network. the Company does not permit or authorize others to use its network to collect, compile or obtain any information about its customers or subscribers, including

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but not limited to subscriber e-mail addresses, which are the Company's confidential and proprietary information. Use of our network is also subject to our Acceptable Use Policy, Policy Statement and Terms of Use and Notices.

III. The Company does not permit or authorize any attempt to use its network in a manner that could damage, disable, overburden or impair any aspect of any of our services, or that could interfere with any other party's use and enjoyment of any the Company product or service.

IV. We monitor all traffic to and from our servers. Customers suspected of using the Company's products and services for the purpose of sending SPAM will be investigated. It is the Company's policy to immediately remove and deactivate any offending web site sending SPAM.

V. Customers may be asked to produce records that verify that explicit affirmative permission was obtained from a recipient before a mailing was sent. The Company may consider the lack of such proof of explicit affirmative permission of a questionable mailing.

VI. Customers are prohibited from maintaining open mail relays on their servers. Ignorance of the presence or operation of an open mail relay is not and will not be considered an acceptable excuse for its (the open mail relay) operation.

VII. Customers are prohibited from providing hosting services for websites that have been included in SPAM. Hosting includes, but is not limited to, hosting website(s), providing DNS services as well as website redirect services.

VIII. If the Company believes that unauthorized or improper use is being made of any product or service, it may, without notice, take such action as it, in its sole discretion, deems appropriate, including blocking messages from a particular internet domain, mail server or IP address. The Company may immediately terminate any account on any product or service which it determines, in its sole discretion, is transmitting or is otherwise connected with any e-mail that violates this policy.

XI. The Company reserves the right to suspend and/or cancel permanently any and all services provided to a User without any notification. If a Customer is in violation of any term or condition of this SPAM Policy, the Acceptable Use Policy, User Agreement or uses of our services to disrupt or, in the Company's sole judgment, could disrupt the Company's business operations, the Company reserves the right to charge such Customer an administrative fee equal to \$10000 per each piece of SPAM sent.

X. To report an incidence of SPAM, please send an email to [abuse@Webodesk.com](mailto:abuse@Webodesk.com).

XI. Nothing in this policy is intended to grant any right to transmit or send e-mail to, or through, our network. Failure to enforce this policy in every instance does not amount to a waiver of the Company's rights.

XII. Unauthorized use of the Company's network in connection with the transmission of unsolicited e-mail, including the transmission of e-mail in violation of this policy, may result in civil and criminal penalties against the sender and those assisting the sender, including those provided by state and federal laws.

### **6. PAYMENT INFORMATION**

You agree to supply appropriate payment for the services received from Webodesk, in advance of the time period during which such services are provided. You agree that until and unless you notify Webodesk of your desire to cancel any or all services received, those services will be billed on a recurring basis. Billing of the activated service will be charged from the day of service provision. Webodesk reserves the right to change the monthly payment amount and any other charges at anytime.

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Webodesk generates invoice of the services 12days before due date. And Invoice payment reminder is sent 7days prior to the due date. Webodesk will be charging 12% late fees to any overdue invoices of the services after 1day of due date. Customer acknowledges to clear the total overdue invoice, along with the late fees charged. In case, you are not able to pay the due invoice, due to unavoidable circumstances like being out of station, Payment Gateway Account Limited, Credit Card Expired Etc., In such cases client needs to inform our billing department with prior notice on delay payment and requesting to remove late fees applied. Webodesk holds sole right to accept or deny the request.

### 7. BACKUPS AND DATA LOSS

Your use of this service is at your sole risk. Our backup service is provided to you as a courtesy. Webodesk is not responsible for files and/or data residing on your account. You agree to take full responsibility for files and data transferred and to maintain all appropriate backup of files and data stored on Webodesk Servers. Backups will not be provided for accounts that have been suspended or terminated for any reason unless otherwise agreed to in writing by Webodesk.

### 8. CANCELLATION AND REFUNDS

Webodesk reserves the right to cancel the account at any time. Customer acknowledges that a minimum of 12 days cancellation notice prior to the following renewal term must be given in writing to Webodesk or the Customer will be responsible for full payment of the following term.

#### **The Cancellation Request Will Be Subject to the Following Guidelines:**

- ✓ Cancellation request must be submitted to the Administration department.
- ✓ Cancellation request must be submitted from the main email address on file with Webodesk.
- ✓ Cancellation request must contain the main IP address of the server you wish to cancel.
- ✓ Cancellation request must contain a valid reason.

#### **Refunds:**

Webodesk gives you full refund on first 30 day moneyback guarantee on all the webhosting services except dedicated servers. Payment made for Domain registration, Product Addons, Management Services DO NOT come under refund policy, domain name can be transferred to client after 60days of the subscription.

**Accounts Suspended/Canceled/Terminated** by Webodesk DO NOT qualify for our "Anytime Money Back Guarantee". This also includes accounts suspended for TOS violations, in which the customer decides not to fix the violation. Only first-time accounts are eligible for a refund. For example, if you've had an account with us before, canceled and signed up again, you will not be eligible for a refund or if you have opened a second account with us. The Anytime MoneyBack Guarantee applies on only first service ordered, does not apply on second or other multiple services ordered in future.

Additional/Advance/Credit funds payment made by the client for future months do not include in refund policy. The client holds sole responsibility for making the advance payments towards the services. In case client chooses to cancel all the active services and still the funds remain in the client credit system. Client can only utilize the credit funds for the future service orders and Webodesk will not be liable to refund such amounts.

Free Domains are available for the life of the Hosting Package. If a customer cancels at anytime Webodesk will require full payment for the cost of the domain of the first year to retain ownership of the domain. Any refund requests will automatically minus the cost of the free domain. A Description about Anytime Money Back Guarantee: [Click Here](#).

### 9. CHARGEBACKS AND PAYMENT DISPUTES

Under this Terms of Service agreement you must first contact Webodesk to attempt to resolve any billing disputes before contacting your bank or credit card company to dispute the charges. You further agree that any billing disputes must be submitted in writing to our administration department within one month of the invoice payment in question.

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By using our services You agree to the above policy and to contact Webodesk before contacting your financial institution to seek a resolution. In the event you dispute charges contrary to this agreement, we reserve the right to refer your account or sell your debt (plus any applicable fees) to a third party collection agency. We also reserve the right to take further legal action against you.

### 10. INSTANT SETUP

Instant Setup is just an auto process to complete the Domain Registration, Shared and VPS Hosting order. This auto process sometimes fails due to certain conditions given below:

- ✓ Domain registration does not complete in cases, when the client uses special characters in the profile, contact details and invalid contact number.
- ✓ Shared Hosting order fails to complete, when the domain is repeatedly used to ordered the web hosting service.
- ✓ Client receives the VPS Service Details in registered email address instantly after completion of order placement through the website.
- ✓ Instant Setup holds 99% of success rate for instant vps setup. In cases of wrong hostname chosen by client, Operating System not selected, Location not chosen, low stocks on the nodes will lead to manual setup of VPS and is not covered under instant setup.
- ✓ Manual setup of VPS will vary from 1-12working hours. In case you needs the VPS setup urgently, client needs to open sales support with "High" priority and the order will be completed within 1-6 working hours.

### 11. RESOURCE USAGE POLICY

Your use of the Services are governed by our Acceptable Use Policy (AUP) and Privacy Policy which are incorporated into this TOS by reference. In the event of inconsistencies between this TOS and the AUP, on the one hand, or the Privacy Policy, on the other, the AUP or Privacy Policy shall govern.

#### **Permitted CPU and Disk Usage:**

The terms "unlimited" and "unmetered" are defined by our experience with bulk number of clients situated similarly. This means that your use of our resources may not exceed that of similarly situated customers. Examples of primary purposes for an account that are not allowed include, but are not limited to:

- ✓ Shared hosting space may only be used for web files, active email and content of User Websites.
- ✓ Shared hosting space may not be used for storage (whether of media, emails, or other data), including, as offsite storage of electronic files, email or FTP hosts.
- ✓ Audio/Video streaming (other than that which is incidental to a site's operation).
- ✓ Very large photo galleries.
- ✓ Storage of a large amount of uncompressed or full-size digital images.
- ✓ Online file (FTP) serving.
- ✓ Distribution of large audio or video content such as MP3 files.
- ✓ Online backups (i.e. backup of desktop/laptop computer, files, or anything not directly related to the website).

Webodesk expressly reserves the right to review every shared account for excessive usage of CPU, disk space and other resources that may be caused by a violation of this Agreement or the Acceptable Use Policy. Webodesk may, in our sole discretion, terminate access to the Services, apply additional fees, or remove or delete User Content for those accounts that are found to be in violation of Webodesk's terms and conditions.

Shared web hosting accounts are allowed to use a maximum of 2,50,000 inodes and 20-35 concurrent HTTP connections to the server. Managed Wordpress Hosting accounts has 4,50,000 inodes and 35-50 concurrent HTTP connections to the servers. Backups older than 30-days in a customer account may be removed from the server at our discretion. Complimentary Server Rewind for shared web hosting backups are limited to a 40GB quota. If you exceed 40GB of disk usage in your account, your account will no longer be backed up. Please download any cPanel backups and store them locally.

## **Bandwidth Usage:**

You are allocated a monthly bandwidth allowance. This allowance varies depending on the hosting package you purchase. Should your account pass the allocated amount we reserve the right to suspend the account until the start of the next allocation, suspend the account until more bandwidth is purchased at an additional fee, suspend the account until you upgrade to a higher level of package, terminate the account and/or charge you an additional fee for the overages. Unused transfer in one month cannot be carried over to the next month.

Word "UNMETERED BANDWIDTH" And "UNLIMITED BANDWIDTH" is assigned to very high bandwidth allocated hosting plans.

Where the user is able to use high bandwidth upto max 20TB/Month on fair usage policy (Only Applies to Shared, Reseller, VPS Services). Once this Limitation is reached the service is automatically suspended. To reactivate the service, you need purchase Bandwidth Packages with respective fees allocated to the packages. Until then the service will be remained closed/suspended. Very High bandwidth users are suggested to upgrade their service to 100TB Dedicated Hosting or Unmetered Dedicated Hosting. In case of any over usage of bandwidth ( More then 20TB ) client/reseller will be charged with 0.15Euros/GB. Should a client/reseller utilize or require large amounts of bandwidth, beyond the standard bandwidth allocation. WeboDesk may require a deposit.

## **12. PRICE CHANGE**

WeboDesk reserve the right to change prices listed on WeboDesk, and the right to change the amount of resources given to plans at any time. Contract pricing customers will not be affected by any price change throughout the contract period. The amount you pay for hosting will never increase from the date of purchase.

## **13. UPTIME GUARANTEE SLA**

WeboDesk strives to maintain a 99.9% Network and Server Uptime Service level.

This uptime percentage is a monthly figure, and is calculated solely by WeboDesk monitoring systems or WeboDesk authorized/contracted outside monitoring services. If WeboDesk fails to meet it's 99.9% uptime guarantee, and it is not due to one of the exceptions below, credits will be made available to each client, upon request, on a case by case basis. WeboDesk does not credit a full month's service for minor downtime. This would not be financially healthy for WeboDesk, and in turn would only negatively affect the service level WeboDesk provides to you. "Partial credit for partial downtime" is our standard policy. In extreme circumstances, WeboDesk may distribute full month credits, but this is dealt with on a case by case basis. Credits are issued for one months service only, never more.

### **Exceptions:**

Customer shall not receive any credits under this SLA in connection with any failure or deficiency of the WeboDesk network caused by or associated with:

Circumstances beyond reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, "Acts of God" (i.e...fire, flood, earthquake, tornado, etc...), strike or other labor disturbance, interruption of or delay in transportation, unavailability of or interruption or delay in telecommunications or third party services, failure of third party software or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the Service Level Agreement.

- ✓ Telco Failure (ie. Verizon™ cutting a fiber line somewhere).
- ✓ Backbone peering point issues (ie. UUnet™ having a router go down in Virginia that wipes out internet service for the entire East Coast).
- ✓ Scheduled maintenance for hardware/software upgrades.
- ✓ Hardware failure (faulty hardware is rare, but cannot be predicted nor avoided). WeboDesk utilizes only name brand hardware of the highest quality and performance.
- ✓ Software bugs/flaws (Exploits and bugs may develop that cause security issues or downtime). DNS issues not within the direct control of WeboDesk.
- ✓ Network floods, hacks, attacks from outside parties or individuals. Failure or error of any WeboDesk monitoring or measurement system.

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- ✓ Client's acts or omissions, including without limitation, any negligence, willful misconduct, or use of WeboDesk service(s) in breach of WeboDesk.
- ✓ Policy and Service Guidelines (AUP), by Client or others authorized by Client.
- ✓ Credits to the services will be applied on below specified stats.

CREDIT	UPTIME
100%	0%
99.1% to 99.9%	5%
98% to 99%	10%
95% to 97.9%	25%
90% to 94.9%	50%
89% or below	100%

### 14. LICENSES AND INTELLECTUAL PROPERTY

WeboDesk grants to you a non-exclusive, non-transferable, worldwide, royalty free license to use technology provided by WeboDesk solely to access and use the Services. This license terminates on the expiration or termination of this TOS. Except for the license rights set out above, this license does not grant any additional rights to you. All right, title and interest in WeboDesk's technology shall remain with WeboDesk, or WeboDesk's licensors. You are not permitted to circumvent any devices designed to protect WeboDesk, or its licensors', ownership interests in the technology provided to you. In addition, you may not reverse engineer this technology.

We may provide technical support, implementation, customer service or administrative information to you. This information is not confidential. We may use this information, as well as aggregate information gleaned from the operation of our business in general, to improve, or create new products and services. We shall be the exclusive owners of this intellectual property. You waive any rights you may in this intellectual property, and assign all right, title and interest in it to us.

You grant WeboDesk, and any third parties used by WeboDesk to provide the Services, a non-exclusive, non-transferable, worldwide, royalty free license to use, disseminate, transmit and cache content, technology and information provided by you and, if applicable, End Users, in conjunction with the Services. This license terminates on the expiration or termination of this TOS. All right, title and interest in your technology shall remain with you, or your licensors.

### 15. WEBODESK'S REPRESENTATIONS AND WARRANTY

WeboDesk warrants that it will perform the Services in accordance with other similarly situated companies. To make a warranty claim, you must notify WeboDesk in writing within 30 days of the date WeboDesk's alleged breach. Your exclusive remedy, and WeboDesk's sole obligation, in the case of a breach of warranty is, at WeboDesk's option, to

(i) reperform the Services; or

(ii) issue you a credit based on the amount of time the Services were not in conformity with this warranty, subtracted ("pro-rated") by the amount of time they were in conformance. For the purposes of WeboDesk's warranty, the following issues shall not constitute services within the definition of "similarly situated companies": up-time, "up-time guarantees" or other items for which WeboDesk provides a service level agreement, regardless of whether a service level agreement is, or was, available for the Services.

Services provided by third parties are expressly excluded from this warranty.

### 16. YOUR REPRESENTATIONS AND WARRANTIES

You represent and warrant to WeboDesk that:

(i) You have the experience and knowledge necessary to use the Services;

(ii) You understand and appreciate the risks inherent to you, your business and your person, that come from using the Services in particular, and doing business on the Internet in general;

(iii) You will provide us with material that may be implemented by us to provide the Services without extra effort on our part; and/or

(iv) You have sufficient knowledge about administering, designing and operating the functions facilitated by the Service to take advantage of the Service.

## 17. DISCLAIMERS

THE SERVICES ARE PROVIDED ON AN AS-IS AND AS-AVAILABLE BASIS. OTHER THAN AS EXPRESSLY SET OUT HEREIN, WeboDesk HAS NOT, AND DOES NOT, MAKE ANY WARRANTIES WHETHER EXPRESS OR IMPLIED. THIS DISCLAIMER INCLUDES, BUT IS NOT LIMITED TO THE WARRANTIES OF NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, WARRANTIES OF MERCHANTABILITY, AND TITLE. WeboDesk DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, SECURE OR FREE FROM VIRUSES OR OTHER HARMFUL COMPONENTS. WeboDesk IS NOT LIABLE, AND EXPRESSLY DISCLAIMS ANY LIABILITY, FOR THE CONTENT OF ANY DATA TRANSFERRED EITHER TO, OR FROM, YOU OR STORED BY YOU OR ANY OF YOUR CUSTOMERS VIA THE SERVICES PROVIDED BY US. WeboDesk SPECIFICALLY DISCLAIMS ANY AND ALL WARRANTIES REGARDING SERVICES PROVIDED BY THIRD PARTIES, REGARDLESS OF WHETHER THOSE SERVICES APPEAR TO BE PROVIDED BY US. NO WARRANTIES MADE BY THESE THIRD PARTY ENTITIES TO WeboDesk SHALL BE PASSED THROUGH TO YOU, NOR SHALL YOU CLAIM TO BE A THIRD PARTY BENEFICIARY OF SUCH WARRANTIES.

THIS WARRANTY DISCLAIMER EXTENDS TO ANY ORAL OR WRITTEN INFORMATION YOU MAY HAVE RECEIVED FROM WeboDesk, ITS EMPLOYEES, THIRD-PARTY VENDORS, AGENTS OR AFFILIATES. YOU MAY NOT RELY ON SUCH INFORMATION.

SOME STATES DO NOT ALLOW WeboDesk TO EXCLUDE CERTAIN WARRANTIES. IF THIS APPLIES TO YOU, YOUR WARRANTY IS LIMITED TO 90 DAYS FROM THE EFFECTIVE DATE.

## 18. LIMITATION OF LIABILITY

It is your obligation to ensure the accuracy, integrity, title or ownership, and security of anything you receive from the Internet. You agree that WeboDesk has no liability, of any sort, for content you or your customers access from the Internet.

WeboDesk provides no guarantee that the Services will be uninterrupted, or continuous, that you will be able to access WeboDesk's network at a particular time, that any data transmitted by WeboDesk is accurate, error free, virus free, secure, or inoffensive. You acknowledge that it is your responsibility to keep back-up copies of your data. WeboDesk is not responsible for any loss of data, for any reason. WeboDesk is not liable for unauthorized access to, or any corruption, erasure, theft, destruction, alteration or inadvertent disclosure of, data, information or content, transmitted, received, or stored on its network.

IN NO EVENT WILL WeboDesk'S LIABILITY HEREUNDER EXCEED THE AGGREGATE FEES ACTUALLY RECEIVED BY WeboDesk FROM YOU FOR THE 3 MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. FOR THE PURPOSES OF THIS PARAGRAPH ONLY, THE TERM WeboDesk SHALL BE INTERPRETED TO INCLUDE WeboDesk'S EMPLOYEES, AGENTS, OWNERS, DIRECTORS, OFFICERS, AFFILIATES, AND THIRD PARTIES PROVIDING SERVICES TO YOU THROUGH US.

YOU AGREE THAT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, YOU WILL NOT UNDER ANY CIRCUMSTANCES INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE, HOLD WeboDesk OR ITS LICENSORS, AGENTS, EMPLOYEES, OFFICERS AND/OR THIRD PARTY VENDORS, LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES WHATSOEVER INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, COST SAVINGS, REVENUE, BUSINESS, DATA OR USE, OR ANY OTHER PECUNIARY LOSS BY YOU, ANY OF YOUR END USERS OR ANY OTHER THIRD PARTY. YOU AGREE THAT THE FOREGOING LIMITATIONS APPLY WHETHER IN AN ACTION IN CONTRACT OR TORT OR ANY OTHER LEGAL THEORY AND APPLY EVEN IF WeboDesk HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES; YOU AGREE THAT IN THOSE JURISDICTIONS OUR LIABILITY WILL BE LIMITED TO THE EXTENT PERMITTED BY LAW.

## 19. INDEMNIFICATION

You agree to indemnify, defend and hold harmless WeboDesk and its parent, subsidiary and affiliated companies, third party service providers and each of their respective officers, directors, employees, shareholders and agents (each an "indemnified party" and, collectively, "indemnified parties") from and against any and all claims, damages, losses, liabilities, suits, actions, demands, proceedings (whether legal or administrative), and expenses (including, but not limited to, reasonable attorney's



fees) threatened, asserted, or filed by a third party against any of the indemnified parties arising out of or relating to

(i) Your use of the Services

(ii) Any violation by you of any of Webodesk's policies;

(iii) Any breach of any of your representations, warranties or covenants contained in this TOS; and/or (iv) Any acts or omissions by you. The terms of this section shall survive any termination of this Agreement. For the purpose of this paragraph only, the terms used to designate "you" include you, your customers, visitors to your website, and users of your products or services, the use of which is facilitated by us.

Webodesk shall indemnify and hold you harmless from, and at its own expense agrees to defend, or at its option to settle, any claim, suit or proceeding brought or threatened against you so far as it is based on a claim that a product or service provided by Webodesk hereunder infringes any patent, copyright, or trademark. This indemnification provision is expressly limited to products or services which are fully owned by Webodesk. It does not extend to products or services provided by third parties. If set out in its agreements with third-party suppliers, Webodesk shall flow down similar intellectual property indemnification provisions to you. This paragraph will be conditioned on your notifying Webodesk promptly in writing of the claim and giving Webodesk full authority, information, and assistance for the defense and settlement thereof. You shall have the right to participate in the defense of the claim at your expense. If such claim has occurred, or in Webodesk's opinion is likely to occur, you agree to permit Webodesk, at its option and expense, either to:

(i) procure for you the right to continue using the product or service;

(ii) Replace with a product or service, regardless of manufacturer, performing the same or similar function as the infringing product or service, or modify the same so that it becomes non-infringing; or

(iii) If neither of the foregoing alternatives is reasonably available, immediately terminate Webodesk's obligations (and your rights) under this TOS with regard to such product or service, and, refund the Fee charged by us for the period in which the Services were unavailable.

## 20. NOTICES

Notices will be sent to you at the address you provide to us. It is your obligation to ensure that we have the most current address for you.

Please refer to our website, [www.webodesk.com](http://www.webodesk.com) for contact information for most issues, including technical support and billing. Notices regarding this TOS and other Webodesk policies should be directed to:

### WEBODESK SOLUTIONS,

98/D, BEHIND DECATHLON, AIRPORT ROAD,

CITY: HUBLI, POSTCODE: 580030, STATE: KARNATAKA, COUNTRY: INDIA.

## 21. MAINTENANCE POLICY

Webodesk offers a 99.9% uptime guarantee. This guarantee excludes scheduled maintenance periods as outlined in our Maintenance Policy. The Maintenance Policy is available at [Server Maintenance Policy](#).

## 22. FORCE MAJEURE

Except for the obligation to pay monies due and owing, neither party shall be liable for any delay or failure in performance due to events outside the defaulting party's reasonable control, including without limitation acts of God, bandwidth interruptions, earthquake, labor disputes, shortages of supplies, riots, war, fire, epidemics, or delays of common carriers or other circumstances beyond its reasonable control. The obligations and rights of the excused party shall be extended on a day to day basis for the time period equal to the period of the excusable delay. The party affected by such an occurrence shall notify the other party as soon as possible, but in no event less than ten days from the beginning of the event.

## 23. CHOICE OF LAW, JURISDICTION AND VENUE

The validity, interpretation, and performance of this TOS, and of the agreements and policies that apply to the Services, shall be controlled by and construed under the laws of the State Karnataka, India as if performed wholly within the state and without giving effect to the principles of conflicts of law. You agree that jurisdiction and venue are proper in the state courts located in Hubli, Karnataka.

#### **24. ALL CLAIMS**

All claims you bring against us must be resolved in accordance with this TOS. Without limiting the previous sentence, this includes claims based on service outages which are expressly covered by our SLA. All claims filed or brought contrary to this TOS will be considered to be improperly filed and a breach of this TOS. If you file a claim contrary to this TOS, we may recover attorneys fees and costs. Attorney's fees include any fees charged by our in-house, or virtual in-house, attorneys.

#### **25. NO WAIVER**

No waiver of rights under this TOS, or any Webodesk policy, or agreement between you and Webodesk shall constitute a subsequent waiver of this or any other right under this TOS.

#### **26. ASSIGNMENT**

This TOS may be assigned by Webodesk. It may not be assigned by you. This TOS shall bind and inure to the benefit of the corporate successors and permitted assigns of the parties.

#### **27. SEVERABILITY**

In the event that any of the terms of this TOS become or are declared to be illegal or otherwise unenforceable by any court of competent jurisdiction, such term(s) shall be null and void and shall be deemed deleted from this TOS. All remaining terms of this Agreement shall remain in full force and effect.

#### **28. SURVIVAL**

Sections 16, 17, 18, 19, 20, 23, 24, 27 and 28 shall survive the termination of this Agreement.

#### **29. CHANGES TO THE TOS**

Webodesk reserves the right to revise its policies at any time without notice. Questions? Please feel free to Contact Us for any clarifications regarding this agreement, preferably before signing up.