

Cloud Hosting Service Agreement

THIS AGREEMENT is made and entered into this _____ by and between Nfina Technologies, Inc., and/or its subsidiaries ("Nfina") and _____ the customer who orders services from Nfina ("Customer" or "You"). Customer and Nfina are collectively referred to in this Agreement as the "Parties."

1. DEFINITIONS:

- a. **'Acceptable Use Policy'** ('AUP') means Nfina's Acceptable Use Policy.
- b. **'Account'** means the Customer's account with Nfina.
- c. **'Agreement'** means the complete and entire understanding between the Parties, exclusively represented by the totality of the following documents: (i) this Agreement; (ii) the Order; (iii) any and all Specific Product/Service Terms and Conditions containing additional terms for use of a particular Service; (iv) Nfina's Acceptable Use Policy; and (v) Nfina's Billing Policy. The term 'Agreement' does not mean and/or shall not refer to any statement, supposition, or understanding not recorded in writing in such documents.
- d. **'API'** means application programming interface.
- e. **'Billing Policy'** ('BP') means Nfina's Billing Policy.
- f. **'Confidential Information'** means all information disclosed by one party to the other, whether disclosed before or after the Effective Date of the Agreement, that the receiving party should reasonably understand to be confidential, including but not limited to: (i) unpublished prices and other terms of Services, audit and security reports, product development plans, nonpublic information of the parties relating to their business activities and/or financial affairs, data center designs (including but not limited to non-graphical information observed during a data center tour), server configuration designs, and other proprietary information or technology; (ii) lists of subscribers, customers, and/or clients, including without limitation information such as credit card numbers, personal contact information, preferences and the results of market research performed or obtained concerning any such subscribers, customers, and/or clients; and (iii) information belonging to and/or concerning either party which is not generally known by or disclosed to the public, including without limitation information regarding either party's hardware, software, personnel, finances, business plans, computer programs, code, algorithms, expertise of employees and consultants, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics, and other technical, business, financial and product development plans, forecasts, strategies, and any other information whether or not marked 'Confidential.' Information that is developed by either party on its own, without reference to the other party's Confidential Information, or that becomes available to one party other than through violation of the Agreement or applicable law, shall not be 'Confidential Information' of the other party. Confidential information shall not include Customer Data.
- g. **'Customer Data'** means all data, records, files, input materials, reports, forms, and/or other such items that are received, stored, and/or transmitted using Services, Nfina's Network, and/or other Nfina resources.
- h. **'Effective Date'** means the earlier of the date of (i) Agreement execution or (ii) Nfina's provisioning of Services.
- i. **'Feedback'** means information provided by Customer, either unsolicited or in response to a questionnaire, survey, and/or other material, regarding Customer's opinions about Nfina and/or its Services.
- j. **'Network'** means Nfina's network of servers, machines, routers, hubs, switches, and other equipment that is integrated with the world-wide web.
- k. **'Order'** means: (i) any online order Customer submits for Services, (ii) any written order (either in electronic and/or paper form) provided to Customer by Nfina for signature that describes Service(s) Customer is purchasing that Customer signs, either manually or electronically, and (iii) Customer's use or provisioning of Services through Customer's Account, the Nfina control panel or through an API.
- l. **'Personal Data'** ('PII') means: (i) a combination of any information that identifies an individual with that individual's sensitive and non-public financial, health, or other data and/or attribute, such as a combination of the individual's name, address, or phone number with the individual's social security number and/or other government issued number, financial account number, date of birth, address, biometric data, or other personally identifiable information; (ii) any 'non-public personal information' as that term is defined in the Gramm-Leach-Bliley Act found at 15 USC 1 6809(4); and/or (iii) 'protected health information' as defined in the Health Insurance Portability and Accountability Act found at 45 CFR 160.103.
- m. **'Registered Name'** means a domain name, whether consisting of two or more levels, about which the Registry Operator of a Top-Level Domain (TLD), or an affiliate engaged in providing Registry Services, maintains data in a Registry Database, arranges for such maintenance, or derives revenue from such maintenance. In essence, a

- * Registered Name is a domain name that is registered with a Registry Operator, through an ICANN-accredited Domain Name Registrar.
- n. **'Services'** means software, products, and/or services described in the Order and includes any service that Customer may self-provision through the Nfina control panel, Customer's Account and/or which Customer utilizes via an API.
- o. **'Support'** means technical support for Services and/or any additional level of support offered by Nfina applicable to specific Services ordered by Customer.
- p. **'Term'** means the length of the Agreement; unless otherwise specified in the Order, commencing on the Effective Date.
- q. **'Terms and Conditions'** means the terms, conditions, and general provisions as listed in the Agreement, any applicable product or service-specific Product and/or Service Terms and Conditions, and any terms and conditions listed in the Order.

2. TERMS and CONDITIONS:

- a. **Entire Agreement and Understanding:** The Agreement constitutes a legally binding contract between Nfina and Customer, which does not extend to any other person or entity, and is the totality of the following documents: (i) this Cloud Services Agreement, (ii) the Order; (iii) any and all Specific Product/Service Terms and Conditions containing additional terms for use of a particular Service; (iv) Nfina's AUP; and (v) Nfina's BP. This instrument, along with the above-listed documents, constitutes the entire Agreement between the parties, and represents the complete and entire understanding of the Parties with respect to the subject matter of this Agreement. Any pre-printed terms on Customer's purchase order and/or any other business forms furnished by Customer to Nfina will not become and are not a part of the Agreement.
- b. **Nfina's Obligations:** Contingent upon Nfina's acceptance of the Order and subject to the terms of the Agreement, Nfina agrees to provide Services and Support described in the Order.
- c. **Amendments:** Nfina, in order to stay compliant with any and all applicable foreign, federal, state, and local laws, and/or in its sole discretion, may from time to time revise the Agreement, including without limitation the availability of Services and Service prices. Such amendments and/or revisions will become effective as to the Agreement upon the earlier of thirty (30) days after Nfina sends notice of such revision, Customer logging into Customer's Account, or Customer's continued use of the Services. Customer is solely responsible for staying informed with respect to changes in this Agreement. Any other amendments to the Agreement must be expressly done by formal writing and signed by both parties.
- d. **Customer Data:** Customer agrees and acknowledges that Customer is solely responsible for preservation of Customer Data. Even with respect to Customer Data as to which Customer has contracted for additional or included backup Services and/or Support, Nfina shall have no responsibility to preserve such Customer Data and any such backup Services and/or Support is provided AS IS, WITHOUT WARRANTY. Nfina is not responsible to Customer for loss of Customer Data or any third party and/or unauthorized use of the Services and/or access to Customer's Customer Data. Customer has the option to create a backup of any Customer Data, including a copy of cloud server(s) and/or cloud-hosted databases, and further acknowledges and agrees that it is Customer's sole responsibility to maintain at least one (1) current copy of any programs, software, and/or Customer Data outside of Nfina's Network and to initiate backup(s) and perform quality testing on such.
- e. **Customer's Obligations:** Customer agrees to (i) comply with any and all applicable laws; (ii) comply with the Agreement; (iii) use software and Services in compliance with the Agreement; (iv) make full and timely payment of fees for the Services; (v) use and maintain reasonable security precautions, protection, and backup of Customer Data, in light of use of Services, including, without limitation, encrypting any PII transmitted to and from, and while stored on the Network, and maintaining security of login credentials and not share such credentials except to establish and/or authorize users in Account; (vi) cooperate with Nfina's reasonable investigation related to assessment of fees and/or overage charges, outages, security problems, and any suspected breach of the Agreement; (vii) keep billing contact and other Account information, including but not limited to contact names, physical mailing addresses, telephone numbers, and email addresses up to date; (viii) immediately notify Nfina of any unauthorized use of Services and/or any other breach of security; (ix) determine the suitability of Services in light of the type of Customer Data used with Services; (x) pay the amount of tax due or provide Nfina with satisfactory evidence, in Nfina's sole discretion, of exemption from tax, if Nfina is required by law to collect taxes on provisioning of Services, and provide Nfina with accurate factual information to help Nfina determine if any such tax is due; and (xi) preserve Customer Data.
- f. **Export:** Customer will comply with all applicable export and import control laws and regulations in its use of Services, and in particular, Customer will not utilize Services to export or re-export data or software without all required United State and/or foreign government licenses. Customer represents and warrants that Customer is not

on the United States Department of Treasury Office of Foreign Asset Control's list of Specially Designated National and Blocked Persons and is not otherwise a person to whom Nfina is legally prohibited to provide Services. Customer assumes full legal responsibility for any access and use of Services from outside the United States, with full understanding that the same may constitute export of technology and technical data that may implicate export regulations and/or require export licenses, and represents that should such license be required, it is Customer's responsibility to obtain the same, and in the event of any breach of this duty resulting in legal claims against Nfina, Customer shall defend and hold Nfina harmless from all claims and damages arising there from.

- g. Execution: The Agreement may be signed in multiple counterparts, which taken together will be considered as the original executed Agreement. Facsimile signatures, signatures by electronic image (i.e. .pdf or .jpg format), and/or electronic signatures shall be deemed as original signatures.
- h. IP Addresses: Upon expiration or termination of the Agreement, Customer must discontinue use of Services and relinquish use of IP addresses and server names assigned to Customer by Nfina in connection with Services, including without limitation pointing the DNS for Customer's domain name(s) away from Nfina. Customer agrees Nfina may, in its sole discretion, make modifications to DNS records and zones on Nfina's Network, managed and/or operated DNS servers, and/or other services.
- i. Legal Compliance: In Nfina's sole discretion, Nfina may suspend or terminate Services and/or this Agreement immediately, with or without prior notice, upon receipt of any lawfully issued notice alleging use of Services and/or the Network to accomplish violations of law from any court having jurisdiction over Nfina. When subject to lawful process requiring disclosure, Nfina may disclose Customer's identity and/or contact information, without providing Customer prior notice of such disclosure, and Nfina will not be liable for damages and/or results thereof. Customer agrees not to bring any action and/or claim against Nfina for such disclosures.
- j. No High Risk Use: Customer may not use Services in any situation where failure or fault of Services could lead to death or serious bodily injury of any person, or to physical or environmental damage. For example, without limitation, Customer may not use, or permit any other person to use, Services for the development, design, manufacture, production, stockpiling, and/or use of nuclear, chemical, and/or biological weapons, weapons of mass destruction, or missiles or in connection with aircraft or other modes of human mass transportation, nuclear or chemical facilities, or Class III medical devices under the Federal Food, Drug, and Cosmetic Act.
- k. Relationship: The relationship between Nfina and Customer is that of independent contractors. Neither party is the agent for the other nor has the right to bind the other in any agreement with any third parties. Nothing in this Agreement shall be construed to constitute Customer as Nfina's agent, employee, independent contractor, joint venturer, and/or any other similar entity. There are no third-party beneficiaries to this Agreement.
- l. Renewal and Non-renewal: Upon expiration of the Initial Term, this Agreement will automatically renew for a term equal to the length of the Initial Term ('Renewal Term'). For example, if the Agreement's Initial Term is one (1) year, the Agreement will automatically renew one (1) year from the Effective Date, and the Renewal Term will be one (1) year. This Renewal Term will automatically occur, unless and until one party gives the other thirty (30) day advance written notice of non-renewal, prior to the expiration of the Initial term or expiration of the then-current Renewal Term. Customer agrees to follow Nfina's non-renewal process and customer is required to inform Nfina in writing at sales@nfina.com and CC support@nfina.com.
- m. Termination for Infringement: If Nfina is faced with a credible claim that Services infringe on the intellectual property rights of a third party, and Nfina is not able to obtain the right to use the infringing element and/or modify Services such that they do not infringe, Nfina may terminate Services on reasonable notice of at least thirty (30) days and will not have any liability on account of such termination, except to refund the amounts paid for Services not used as of the time of termination (i.e. pre-payment).
- n. Third Party Services: Nfina from time to time may recommend and/or make available, including without limitation availability through deployment, various third party software, products, implementation tools, and/or services for Customer's consideration. NFINA MAKES NO REPRESENTATION AND/OR WARRANTIES WHATSOEVER REGARDING SUCH THIRD PARTY SOFTWARE, PRODUCTS, TOOLS, and/or SERVICES THAT ARE NOT PURCHASED FROM NFINA. Customer's use of any such third party software, products, tools, and/or services is governed by the terms of Customer's agreement with the third party provider of such, if any, and is at Customer's sole and exclusive risk.
- o. Third Party Users: Customer may permit subsidiary and affiliated companies to use Services, and Customer is responsible for acts and/or omissions of any and all third party users. Customer may resell to third parties and assumes full responsibility for such third party activities and content, which are governed by the Agreement. Unless otherwise expressly stated in the Agreement, Nfina will provide Support only to Customer and will not provide Support to Customer's customers, end users, subsidiaries, affiliates, third parties, and/or third party affiliates. There

- * are no third party beneficiaries to the Agreement, meaning that Customer's customers, subsidiaries, affiliates, and/or third parties have no rights against Nfina under and/or arising from the Agreement.
- p. Service Management Agent: Customer agrees that Customer will not interfere with any service management software ('SMS') agent(s) that Nfina may install on Services. Nfina agrees that any SMS agent will only utilize a minimal amount of computing resources and will not interfere with Customer's use of Services. Should Customer attempt to and/or actually interfere and/or disable such SMS agent(s), Customer's Service will become 'Unsupported' and Nfina may access Services to reinstall such SMS agent(s).
- q. Support: Nfina will only provide Support to Customer's Account administrative and/or technical contact(s) listed at the time of request for Support.

3. WARRANTIES and LIMITATION OF LIABILITY:

With respect to the Services to be provided hereunder, Customer understands and acknowledges **that NFINA MAKES ABSOLUTELY NO WARRANTIES WHATSOEVER, EXPRESS OR IMPLIED**. Customer further agrees that Nfina and any of its employees, agents, affiliates, and/or suppliers shall not be liable to Customer for any claims, damages, or loss of profit which may be suffered by Customer or any other entity in any respect for direct, indirect, consequential, actual, or punitive damages arising out of or in relation to Services provided hereunder, including, but not limited to, losses or damages resulting from loss of Customer Data, unless such loss of Customer Data was the result of Nfina's negligence or breach of its obligations under this agreement. CUSTOMER'S EXCLUSIVE REMEDY ARISING OUT OF ITS PURCHASE AND USE OF SUPPLIER'S SERVICES AND/OR PRODUCTS OR ARISING OUT OF ANYTHING DONE OR NOT DONE IN CONNECTION WITH THE CONTRACT, SHALL BE LIMITED EXCLUSIVELY TO COMPENSATORY DAMAGES THE RECOVERY OF WHICH SHALL BE LIMITED TO AND SHALL NOT BE GREATER THAN THE AMOUNT, IN AGGREGATE, OF ONE MONTH'S CONTRACT PRICE FOR THE PRODUCTS AND/OR SERVICES RELATED TO WHICH DAMAGES ARE CLAIMED. THERE SHALL BE NO CLAIM FOR NOR RECOVERY OF PUNITIVE OR SPECIAL DAMAGES, OR FOR LOSS OF PROFITS OR ANY OTHER FORM OF CONSEQUENTIAL DAMAGES, NOR FOR ANY AWARD OF ANY NATURE WHICH EXCEEDS THE LIMITATION SET OUT IN THE PRECEDING SENTENCE UNDER ANY LEGAL THEORY WHETHER BASED UPON CONTRACT, WARRANTY, TORT STRICT LIABILITY, STATUTORY OR REGULATORY PROVISIONS, INDEMNITY, CONTRIBUTION, OR OTHERWISE. The utilization of any data or information received by Customer via Nfina's Network, Services, and/or other Nfina's other resources is at Customer's sole and absolute risk, and Nfina specifically disclaims and denies any responsibility for the completeness, accuracy, or quality of such data or information.

4. INTELLECTUAL PROPERTY

- a. Intellectual Property: Neither party shall take any action or intentionally omit to take any action that would jeopardize, limit, or interfere in any manner with the ownership of the other party's products, services, documentation, or intellectual property. Title to and ownership of any and all original and/or copies of any products, services, software, documentation, and/or Internet services developed by and/or for Nfina and/or owned by Nfina through the Term of the Agreement, whether in machine-readable or printed form, and including, without limitation, any derivative works, compilations, or collective works thereof, and all related technical know-how, and all rights therein (including without limitation rights in patents, copyrights, and trade secrets applicable thereto), are and shall remain the exclusive property of Nfina and its suppliers and/or its vendors. Customer shall not take any action to jeopardize, limit, and/or interfere in any manner with Nfina's rights, title to, and interest in and to its trade secrets, inventions, copyrights, and/or other intellectual property including without limitation disassembling, de-compiling, or reverse-engineering any of Nfina's Internet software and/or any of Nfina's source code. Customer shall not use any of Nfina's intellectual property including without limitation Nfina's name, trademarks, trade names, or logos, in connection with the operation of Customer's business, except as may be provided for in the Agreement. Neither party shall use the other party's name, trademarks, or logos in either its own corporate name or in any fictitious name. Neither party nor its employees or agents shall knowingly remove or alter any trademark, trade name, copyright, or other proprietary notices, legends, or symbols from any of the other party's products or documentation or intellectual property.
- b. Nfina's Network: Customer does not acquire any ownership interest in and/or right to possess the Network and/or any Network components, and Customer has no right to physically access to the Network.
- c. Feedback: Nfina owns all right, title, and interest in and to Feedback. Upon providing Feedback, Customer irrevocably assigns to Nfina all right, title, and interest in and to any intellectual property rights in the Feedback

and agrees to provide Nfina with any assistance Nfina may require to document, perfect, and/or maintain Nfina's rights in the Feedback.

5. CONFIDENTIALITY & NON-SOLICITATION

- a. **Confidential Information:** Customer and Nfina hereby agree not to disclose or use and to assure that their employees and agents do not disclose or use each other's Confidential Information. Both parties acknowledge that the other's respective Confidential Information is valuable, special, and unique; that its unauthorized disclosure and/or use will cause irreparable injury to the other party; that immediate injunctive and/or other equitable relief will be necessary and appropriate to remedy any unauthorized disclosure or use of such information; and that such relief may include without limitation a Temporary Restraining Order (obtained ex parte) as well as permanent injunctive or other relief. Upon termination of the Agreement, each party agrees to return to the other party, within a reasonable time period, any and all Confidential Information and other materials belonging to the other.
- b. **Non-Solicitation:** Customer shall not cause or attempt to cause any employee or agent of Nfina, its subsidiaries, and/or of its parent company, to terminate employment or agency during the Term of this Agreement. Customer further agrees not to cause or attempt to cause any of Nfina's customers, their agents, or their employees to terminate their respective relationships with Nfina, its subsidiaries, and/or its parent company. In the event of Customer's breach of this provision of the Agreement, and given the difficulty of measuring the harm from such breach, Customer shall presumptively be minimally liable to Nfina for damages measured as seventy-five percent (75%) of the twelve months previous compensation for the employee or agent who/which terminates their relationship with Nfina or for damages measured as seventy-five percent (75%) of the revenue which had been anticipated from any lost customer over the twelve months following the termination of their relationship with Nfina.
- c. This Section will survive the termination of the Agreement for a period of two (2) years.

6. FEES AND PAYMENT:

The following is intended to supplement the BP by providing a context for it, without conflicting therewith:

- a. **Set-Up and Initial Term Fees:** Set-up fees, related service charges, and any applicable first payments for payment plan installments are due at the time Customer submits an Order, orders Services, and/or provisions Services. Customer accepts and acknowledges that Customer will be responsible for paying for any network resources that are used to connect Customer's Services, even if Customer is not utilizing Services. Customer may initiate non-renewal and/or a cancellation request in accordance with this Agreement but shall be responsible for paying for any Nfina Network resources (including without limitation space provisioned for Customer's Services) up to the point of non-renewal or cancellation. Customer further agrees and acknowledges that cancellations made after Customer submits an Order, orders Services, and/or provisions Services and/or Nfina provisions Services for Customer will not nullify Customer's obligation for set-up fees, related service charges, and all Initial Term fees and/or payments due under any applicable payment plan. All set-up and Initial Term fees are non-refundable, in whole or in part, even if Customer's Account is suspended, cancelled, or transferred prior to the end of the Initial Term. Any suspension, termination, and/or cancellation by Nfina or Customer shall not relieve Customer of the obligation to pay all fees accrued prior to such suspension, termination and/or cancellation.
- b. **Invoices:** Nfina will charge Customer for fees in accordance with the Order; unless otherwise stated, the billing cycle for Services will be monthly. Nfina will charge Customer's credit/debit card without invoice as follows: (i) for recurring fees, in advance, on or around the first day of each billing cycle; and (ii) for non-recurring fees (such as fees for initial set up fees, service related charges, overages, cycle fees, and domain name registration fees) on or around the date incurred, or on or around the first day of the billing cycle that follows the date incurred, at Nfina's option. Nfina, in its sole discretion, may wait to charge such fees until the total aggregate due is at least \$10.
- c. **Restrictive Endorsements:** If Customer pays by check, restrictive endorsements or other statements on checks accepted by Nfina shall have no effect.
- d. **Overages:** Nfina will bill Customer, and Customer shall pay, for excess resources used by Customer including, without limitation, overages for data transfer, disk space usage, and virtual host limits. If Customer exceeds Customer's virtual host limit, Nfina, in its sole discretion, may automatically upgrade to the next-higher service plan and bill Customer according to the upgraded plan and Customer will pay according to the upgraded plan.
- e. **Late Fees:** In Nfina's sole discretion, interest charges may be added to any past due amounts at the rate of 1.5% per month (or the maximum rate allowed by law, if less).
- f. **Promotional Offers and Guarantees:** All promotional offers may be invalidated by Nfina, in its sole discretion, if Customer fails to make timely and full payment or if Customer cancels Services within 30 calendar days of the Effective Date, and, as such, Customer will be charged the full price for Services. No 30-day 'money-back'

- guarantees apply to collocation plans, self-managed dedicated server plans, or upgrades and/or downgrades from one plan to another.
- g. Suspension of Services and Registered Name registration: Customer acknowledges and agrees that Customer's Registered Name is subject to suspension, cancellation, or transfer by any ICANN procedure, by any Registrar and/or Registry Operator procedures approved under an ICANN-adopted policy, and/or by any other TLD Registry Operator procedures as the case may be, for the resolution of disputes concerning the Registered Name, and, in the event of Customer's failure to pay, Customer agrees and acknowledges that, Nfina, in its sole discretion, may cause Customer's Registered Name registration to be transferred to Nfina. Should Nfina cause Customer's Registered Name registration to be transferred, Nfina will possess any and all rights regarding such Registered Name registration including without limitation the right to make said Registered Name available to other parties for purchase. Nfina may reinstate Customer's Registered Name registration at Nfina's sole discretion following Nfina's receipt of payment in full from Customer (unless Nfina has already sold the Registered Name registration to a third party, under the above provisions of this Agreement).
- h. Default and Acceleration: Should Customer fail to make timely and full payment and/or otherwise breach this Agreement, Nfina may declare Customer in default and require Customer to pay all fees owing for the then-current Term immediately and without prior or further notice. Additionally, in the event of such default, Nfina may act, in its sole discretion, as Customer's Attorney-in-Fact to execute actions and/or proceedings. In the event of default, Nfina will delete and purge all Customer Data from its system. Nfina is not obligated to return Customer Data after nonpayment.
- i. Collections: Customer shall reimburse Nfina for all costs (including reasonable attorney fees) associated with collecting overdue Account balances, delinquent payments, and/or dishonored payments, including without limitation credit card chargebacks.

7. SERVICE LEVEL AGREEMENT (SLA):

- a. **Uptime and Credits:** Nfina Cloud Services are guaranteed to have at least 99.99% uptime for each month of service. If the monthly uptime percentage as calculated by the below formula falls below 99.99%, then the customer is entitled to a service credit worth 10%, 25%, or 100% of the service contract value.

$$\text{Monthly Uptime \%} = \frac{(\text{Maximum Available Minutes-Downtime})}{\text{Maximum Available Minutes}} \times 100$$

<i>Monthly Uptime %</i>	<i>Service Credit</i>
< 99.99%	10%
< 99%	25%
< 95%	100%

- b. **Response Times:** Nfina provides the following SLA response times for issues which arise with any Nfina hosted services:

Issue Description	Severity	Response Time
Service not available (all users and functions unavailable. Ex: Server down, network down).	1	2 hours
Limited degradation of service (limited number of users or functions affected, business process can continue).	2	4 hours
Small service degradation (business process can continue, one user affected).	3	8 hours

- c. **Service Level Failure:** A service level failure is defined as any month in which the Monthly Uptime of the provided service falls below 95% during the period.
- d. **Termination for Cause:** If a Service Level Failure occurs: (i) in any three (3) months in any rolling twelve (12) month period, Client shall have the right to terminate the Agreement at any time thereafter upon prior written notice to Nfina (which notice shall reference this Section and shall describe such failures) without any penalty or liability, and shall receive a prorated refund of all amounts prepaid by Client and unearned by SP as of the date of termination.

8. SUSPENSION and TERMINATION:

Breach of Agreement: Nfina, in its sole discretion, may unilaterally suspend and/or terminate Services without liability if: (i) Nfina believes that Services are being used in violation of the Agreement; (ii) Nfina discovers that Customer has (and/or is affiliated in an manner with a third-party customer that) used Services abusively in the past; (iii) Customer fails to make full and timely payment for Services, fees, and/or charges; (iv) Customer does not cooperate with Nfina's reasonable investigation of any suspected violation of the Agreement; (v) there is an attack on the Services and/or Services are/were accessed and/or manipulated by a third party; (vi) Nfina is required to do so by law or a regulatory or governmental body; or (vii) there is another event with respect to which Nfina reasonably believes, in its sole discretion, such action is necessary to protect Nfina's Network and/or other resources and/or other customers. IF Nfina's termination of the Agreement is for any reason other than non-payment, and if the parties can reach a mutually acceptable resolution of any claims Nfina asserts or could assert against the customer as a result of the termination, the customer will be allowed to download their data. If, however, Nfina's termination is the result of the customer's failure to pay, Nfina will archive Customer's Data and hold until non-payment is resolved.

- a. Notice of Suspension or Termination: Nfina will attempt to give Customer reasonable advance notice of suspension or termination (of at least twelve (12) business hours), unless Nfina determines, in its sole discretion, that such action without notice or on shorter or contemporaneous notice is necessary.
- b. SLA Credits During Suspension: During suspension, Customer is not entitled to any SLA Credits under any applicable SLA.

9. INDEMNIFICATION:

Customer shall indemnify and hold harmless Nfina from any and all loss, cost, expense, and damage on account of any and all manner of claims, demands, actions, suits, proceedings, judgments, costs, and expenses that may be initiated against Nfina and Nfina's officers, directors, and employees for any Service provided to Customer by Nfina, to include Web space content that violates any copyright, trademark, or service mark; any proprietary right of any person or entity; any state and/or federal laws or regulations; or contains any defamatory matter.

10. MISCELLANEOUS

- a. Governing Law: The Agreement shall be governed by the laws of the State of Alabama in the USA without regard to such State's laws and rules concerning conflicts of laws. Each party agrees that jurisdiction and venue for any and all claims, disputes, and/or other matters arising from the Agreement will only lie in Mobile County, Alabama. If any legal action is brought in Mobile County, Alabama, to enforce and/or interpret the Agreement, the prevailing party in such action shall be entitled to all reasonable costs to include attorney fees. If either party files or brings any legal action outside Mobile County, Alabama, the defending party may make a formal demand for reimbursement of the costs and expenses incurred for seeking dismissal and/or transfer of such action including attorneys' fees to the filing party and the filing party shall fully reimburse the defending party within ten (10) calendar days after receipt of such demand.
- b. Severability: In the event that any term, condition, and/or provision of the Agreement is held by a court of competent jurisdiction to be illegal, unenforceable, and/or invalid in whole or in part for any reason, the remaining provisions of the Agreement shall remain in full force and effect.
- c. Interpretation: Captions in the Agreement are for convenience only. Use of the words and/or phrase 'including,' 'and/or,' and 'such as' herein shall be read as 'including without limitation.' The format, words, and phrases herein have plain English meanings and/or definitions generally understood in the Computer/Software/Internet Industries. Capitalization or lack of capitalization shall not be deemed to impact the meaning of any term used herein. This Agreement shall be construed according to its plain meaning. In the event any ambiguity is found herein, interpretation shall be based on the intent of the Parties, rather than a construction automatically against the interests of the drafting party.

- d. Survival: All Agreement terms, provisions, paragraphs, and/or sections, which by their nature are intended to survive expiration or termination of the Agreement, shall so survive.
- e. Force Majeure: Either party shall be excused from performance to the extent that it is prevented from performing as a result of any act and/or event which occurs and that is beyond the nonperforming party's reasonable control including without limitation: (i) acts of God; (ii) war; (iii) weather; (iv) utility or telecommunications outages; (v) unrest or riot; (vi) union strikes; or (vii) any action of a governmental entity, provided that the nonperforming party experiencing the force majeure provides the other with prompt written notice thereof and uses reasonable efforts to remedy the effects of such force majeure.
- f. Notices: Nfina's routine communications regarding Services and/or legal notices will be sent to the designated contact person listed on Customer's Account either by electronic mail or USPS mail, except that Nfina may give notice of Agreement revisions and/or amendments by posting such notice on Customer's Account. Customer should send routine communications to Nfina via links from Customer's Account portal. All non-routine and/or legal correspondence should be sent either by electronic mail by USPS to:

Nfina Technologies, Inc.
Warren H. Nicholson, President/CEO
820 S. University Blvd., Suite 4E
Mobile, Alabama 36609

The term of this Agreement is _____ months beginning _____:

This agreement will include the following:

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date and year first above written.

Nfina Technologies, Inc.

By: _____
As its: _____
Date: _____

By: _____
As its: _____
Date: _____