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Meriplex Communications, Ltd. Cloud Terms and Conditions

1. General

a. By using Meriplex Communications, Ltd.'s ("Meriplex") service, you agree to the terms and conditions set forth herein (the "Terms and Conditions"). The terms "customer," "you" or "your" refers to you, your employees, and those you have authorized to use the service provided by Meriplex.

b. Your use of Meriplex services is governed by these Terms and Conditions, the Meriplex Acceptable Use Policy, and the terms of your Sales Order (or "Order"). When we use the term "Agreement" in any of the Order, Terms and Conditions, or Acceptable Use Policy, we are referring collectively to all of them. If the individual who submits an Order does so on behalf of a company or other legal entity, the individual represents that he or she has authority to bind that entity to the Agreement. **This Agreement is the complete and exclusive agreement between you and Meriplex regarding its subject matter and supersedes and replaces any prior agreement, understanding, or communication, written or oral.**

c. Meriplex shall have the right at any time to change or discontinue any aspect or feature of its service, including, but not limited to changes required by changes in government regulations. Meriplex shall have the right to add to, modify, or delete any provision of these Terms and Conditions at any time. Meriplex will notify you of any change to the Terms and Conditions by e-mail or U.S. Mail. You agree that any one of the foregoing will constitute sufficient notice of such changes. If you do not agree to the changes, you must notify Meriplex in writing of your objection and the impact on your use of the service no later than ten (10) days after our notice of the change to the Terms and Conditions. If we cannot accommodate your objection and the change materially affects your use of our service, we will agree to terminate the service without penalty within forty-five (45) days after our receipt of your objection. If Meriplex does not receive a notice of objection from you within the 10-day period described above, you shall be deemed to have agreed to proposed change(s), which shall thereafter by a part of this Agreement.

d. You agree not to resell Meriplex's voice services, nor permit these services to be used by anyone other than your employees, guests, and customers of your business.

2. Defined Terms

Some words used in the Agreement have particular meanings:

"**Acceptable Use Policy**" or "**AUP**" means the Meriplex Acceptable Use Policy posted at www.meriplex.com/acceptable_use_policy.htm.

"**Affiliate**" means any and all legal entities which now or hereafter the ultimate parent of Meriplex controls. For the purpose of this definition, "control" shall mean an entity, directly or indirectly, holding more than fifty per cent (50%) of the issued share capital, or more than fifty per cent (50%) of the voting power at general meetings, or which as the power to appoint and to dismiss majority of the directors or otherwise to direct the activities of such legal entity.

"**Business Day**" means 8:00 a.m. – 5:00 p.m. Monday through Friday, United States central time, excluding federal public holidays in the United States.

"**Confidential Information**" means all information disclosed by one of us to the other, whether before or after the effective date of the Agreement, that the recipient should reasonably understand to be confidential, including: (i) for you, all information transmitted to or from, or stored on, the Meriplex cloud system, (ii) for Meriplex, unpublished prices and other Terms and Conditions, audit and security reports, product development plans, data center designs (including non-graphic information you may observe on a tour of a data center), server configuration designs, and other proprietary information or technology, and (iii) for both of us, information that is marked or otherwise conspicuously designated as confidential. Information that is developed by one of us on our own, without reference to the other's Confidential Information, or that becomes available to one of us other than through violation of the Agreement or applicable law, shall not be "Confidential Information" of the other party.

"**Junk Mail**" means email that is captured by our mail filter and other email that is reported by you to Meriplex as undesirable.

"**Order**" means either: (i) a Meriplex Sales Order that is signed by you, either manually or electronically, or (ii) any other written order (either in electronic or paper form) provided to you by Meriplex for signature that describes the Services you are purchasing, and that is signed by you, either manually or electronically.

"Personally Identifiable Information" or "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 or attribute, such as a combination of the individual's name, address, or phone number with the individual's social security number or other government issued number, financial account number, date of birth, address, biometric data, mother's maiden name, 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 Subchapter 1, § 6809(4), and (iii) "protected health information" as defined in the Health Insurance Portability and Accountability Act found at 45 CFR §160.103.

"Services" means those services described in the Sales Order.

3. Meriplex's Obligations

Contingent on Meriplex's acceptance of your Order, and subject to these Terms and Conditions, Meriplex agrees to provide the Services.

- a. Meriplex Cloud Servers with a Managed Service Level: If you purchase Meriplex Cloud Servers with a Managed Service Level, then Meriplex live support will be available to you 24 hours per day, 7 days a week, year round. You may request support by opening a support ticket, or by calling the Meriplex Network Operations Center.
- b. Monitoring and Response: If you purchase Meriplex Cloud Servers with a Managed Service Level then Meriplex will provide the following monitoring and response services:
 - i. Availability Monitoring: Meriplex will monitor up to 2 TCP ports (HTTP, HTTPS, SMTP, POP3, etc.) per server for service availability. General server availability is tested every one (1) minute via ping. You will be alerted via ticket if port or ping monitors fail three consecutive times. You may also configure monitoring for one URL's content. Port and URL content checks are done every five (5) minutes.
 - ii. Fault Monitoring: Meriplex monitors status events on servers and network devices including network availability, and backup success/failure.
 - iii. Notification of Monitoring Alerts: We will notify you of monitoring alerts.

4. Your Obligations

You agree to do each of the following: (i) comply with applicable law and the Meriplex Acceptable Use Policy (ii) pay the fees for the Services when due, (iii) use reasonable security precautions in light of your use of the Services, including encrypting any PII transmitted to or from, or stored on, the Meriplex Services you use (iv) cooperate with Meriplex's reasonable investigation of outages, security problems, and any suspected breach of the Agreement, (v) keep your billing contact and other account information up to date; and (vi) immediately notify Meriplex of any unauthorized use of your account or any other breach of security. In the event of a dispute between us regarding the interpretation of applicable law or the AUP, Meriplex's reasonable determination shall control.

5. Term

The initial term for each Order begins on the date we make the Services available for your use and continues for the period stated in the Order. If no period is stated in the Order, then the initial term shall be one month. Upon expiration of the initial term or any subsequent terms, the service term shall automatically renew for consecutive one year terms, or if the initial term is less than one year, the renewal term shall be equal to the initial term. If you desire to terminate the service upon expiration of the initial term or any subsequent terms, you must send written notice to Meriplex at least thirty (30) days prior to the expiration of the term. Meriplex will also notify you in writing at least thirty (30) days prior to the expiration of the initial term or subsequent terms if Meriplex plans to terminate the service upon expiration of the term.

6. Charges

- a. Meriplex will charge you the fees stated in your Sales Order. If you have made a minimum commitment in your Sales Order, and your actual usage does not meet or exceed the minimum commitment, Meriplex will charge you the difference between your minimum commitment and your actual usage. Unless otherwise agreed in the Sales Order, your billing cycle will be monthly, beginning on the date that Meriplex first makes the Services available to you.
- b. You agree to pay for your services and all use of your account, including charges for installation and all local, state, and federal fees and taxes. Charges for the service are on executed Sales Order that has been provided to you.
- c. Recurring monthly charges will be billed monthly in advance. Usage charges for services will be billed in the next monthly billing cycle following such use, or as otherwise specified in the price list. All charges are payable on the due date specified on the bill, normally thirty (30) days from the date of billing. Billing for partial months is prorated. You are responsible for all charges respecting the Service, even if incurred as the result of unauthorized use.

- d. Payments must be received by Meriplex on or before the due date stated on the monthly bill, statement or invoice. A late fee may be charged on accounts that are past due. The current late fee is listed in the list of charges or can be provided upon request. Meriplex reserves the right to change the late fee at any time in the future pursuant to Section 1.c above and as permitted by applicable law. If you reasonably dispute an invoice(s), you must pay the undisputed amount and submit written notice of the disputed amount (with details of the nature of the dispute and the Services and invoice(s) disputed). Disputes must be submitted in writing within 120 days from the date of the invoice. If the dispute is resolved against you, you shall pay such amounts plus interest from the date originally due.
- e. Meriplex may charge a service fee for all returned checks and bankcard or charge card charge backs. The current late fee is listed in the list of charges or can be provided upon request.
- f. You are responsible for and agree to pay all expenses, including but not limited to, reasonable attorneys' fees, court costs, and all other costs incurred by Meriplex in collecting any amounts due and unpaid.
- g. Any "credit" that we may owe you, such as a credit for failure to meet a service level guaranty, will be applied to fees due from you for services, and will not be paid to you as a refund.

7. Access to Data

- a. You will not have access to your data stored on the Meriplex Cloud system during a suspension or following termination.
- b. We backup the Meriplex Cloud systems on a periodic basis so that we are able to more quickly restore the systems in the event of a failure. These backups are made on a snap-shot basis and, therefore, capture only the information that exists on the system at the time of the backup. In addition, we may destroy all but the most recent backup. These backups may not be available to you or, if available, may not be useful to you outside of the Meriplex Cloud systems.
- c. Although the Meriplex Cloud service may be used as a backup service, you agree that you will maintain at least one additional current copy of your programs and data stored on the Meriplex Cloud system somewhere other than on the Meriplex Cloud system .

8. Unauthorized Access to Your Data or Use of the Services

Meriplex is not responsible to you for unauthorized access to your data or the unauthorized use of the Services unless the unauthorized access or use results from Meriplex's failure to meet its security obligations stated in the Agreement. You are responsible for the use of the Services by any employee of yours, any person to whom you have given access to the Services, and any person who gains access to your data or the Services as a result of your failure to use reasonable security precautions, even if such use was not authorized by you. All use of your account, whether or not authorized by you, shall be deemed your use. Accordingly, you are responsible for protecting the confidentiality of your account passwords.

9. Export Matters

You represent and warrant that you are not on the United States Department of Treasury, Office of Foreign Asset Controls list of Specially Designated National and Blocked Persons and are not otherwise a person to whom Meriplex is legally prohibited to provide the Services. You may not use the Services for the development, design, manufacture, production, stockpiling, or use of nuclear, chemical or biological weapons, weapons of mass destruction, or missiles, in a country listed in Country Groups D: 4 and D: 3, as set forth in Supplement No. 1 to the Part 740 of the United States Export Administration Regulations, nor may you provide administrative access to the Service to any person (including any natural person or government or private entity) that is located in or is a national of Cuba, Iran, Libya, Sudan, North Korea or Syria or any country that is embargoed or highly restricted under United States export regulations.

10. Review and Enforcement

- a. **Meriplex** shall have the right, but not the obligation, to review content on public areas of the service to determine compliance with these Terms and Conditions and our Acceptable Use Policy.
- b. **Meriplex** has the right to edit, refuse to post, request removal of, or remove any material submitted to or posted on its service, including personal home pages and links to other sites. Without limiting the foregoing or Meriplex's other rights, **Meriplex** has the right to remove any material that **Meriplex** in its sole discretion determines to be unacceptable or to violate these Terms and Conditions, any bandwidth use limitations, or **Meriplex's** Acceptable Use Policy. If **Meriplex** finds any violation or objectionable material, it may suspend your service, take other action to prevent you from using certain account privileges, or cancel your account without prior notification. **Meriplex** may also suspend or cancel your account for posting content to the Internet that violates these Terms and Conditions or its Acceptable Use Policy. If your service is suspended, you will not be charged for services during the suspension. If your account is canceled, **Meriplex** may refund any pre-paid fees minus any amount due.
- c. You agree that **Meriplex** shall have the right to take any reasonable and professional action that it deems appropriate to protect its service, its reputation, its facilities, and its equipment.

- d. Meriplex has the right to monitor your bandwidth use (i.e. volume of data transmitted) at any time and on an on-going basis but will not limit use of bandwidth lower than the rate specified in the Sales Order.

11. Customer Conduct

- a. You may use the service for lawful purposes only, and in accordance with these Terms and Conditions and Meriplex's Acceptable Use Policy. You shall not upload, post, transmit or otherwise make available any material that violates or infringes in any way upon the rights of others, or that is unlawful, threatening, abusive, obstructive, harassing, libelous, invasive of privacy or publicity rights, or that in the circumstances would be obscene or indecent, that constitutes hate speech, that is otherwise offensive or objectionable, or that encourages conduct that would constitute a criminal offense or give rise to civil liability or otherwise violate any law. You may not link personal home pages to material or content that violates the standards of conduct in these Terms and Conditions or Meriplex's Acceptable Use Policy. Meriplex may remove or require that you remove content that in Meriplex's sole discretion violates these standards.
- b. You may not upload, post, transmit or otherwise make available any material protected by copyright, trademark, patent, trade secret or other proprietary right in a manner that infringes or violates any such right. Meriplex's policy is to terminate any customer's service where there is a repeat infringement after reasonable notification. This policy does not affect any other rights Meriplex may have under law or under any agreement between you and Meriplex. Meriplex also reserves the right to suspend or terminate your service for a single violation of any provision of these Terms and Conditions, Meriplex's Acceptable Use Policy, or its tariffs.
- c. Except as authorized in this paragraph, you are not being granted any right or license under any copyright, trademark, service mark, patent or other intellectual property right in the information, services, processes, or technology described therein or under any other intellectual property right of Meriplex or its affiliates. Meriplex, its affiliates, and any third party owner of such rights retain all such rights.
- d. Meriplex's names and logos and all related product and service names, design marks, and slogans are the trademarks or service marks of Meriplex or one of its affiliates. You must obtain Meriplex's written authorization before using any Meriplex name or mark in any advertising, publicity, or in any other commercial manner.

12. Privacy

Meriplex and its affiliates are committed to protecting the privacy and security of its customers. The customer's privacy interests, including its ability to limit disclosure of certain information to third parties, are addressed by, among other laws, the Electronic Communications Privacy Act.

- a. Meriplex uses private information for billing and operations purposes.
- b. Meriplex will not disclose information on a customer's account to any unaffiliated third party for marketing purposes.
- c. Meriplex may disclose customer information without the customer's consent to comply with a subpoena, court order, or legal reporting requirement.
- d. Meriplex may disclose customer information to protect accounts against fraud and unauthorized transactions, to resolve customer disputes, and as necessary to our accountants, attorneys, regulators and auditors.
- e. In addition to actions and disclosures specifically authorized by statute or authorized elsewhere in this Agreement, Meriplex shall have the right (except where prohibited by law notwithstanding your consent), but not the obligation, to monitor content on its service and to disclose any information to protect its rights, property, operations, and where circumstances suggest that individual or public safety is in peril. You agree to allow Meriplex to release any and all information about you to comply with a legal process, such as a subpoena, search warrant, court order, or in the circumstances described above.
- f. When you use Meriplex's Internet access to transmit information, the Electronics Communications Privacy Act permits Meriplex to access such information, including the content of communications. It also permits Meriplex to disclose such information to an addressee or intended recipient (or his or her agent); to a person involved in forwarding such information to its destination; when it is necessarily incident to providing service or to protect our rights or property; to others with the consent of the customer or an addressee or intended recipient (or his or her agent); to law enforcement if such information appears to be evidence of child pornography or was inadvertently obtained and appears to pertain to a crime; or as otherwise provided by law. You agree that Meriplex may monitor content on the service; and may disclose any information in the possession of, Meriplex to protect their respective rights, property or operations, or where circumstances suggest that individual or public safety is in peril.
- g. Customer hereby authorizes Meriplex to make inquiries and to receive information about his/her/their credit history from credit reporting agencies or others and to utilize such information in its decision regarding its entry into this Agreement or provision of services hereunder.
- h. Other aspects of Meriplex's Privacy Policy and Safe Harbor certification can be found at www.meriplex.com/privacy_policy.htm.

13. Disclaimer of Warranty; Limitation of Liability

a. **EXCEPT AS SET FORTH IN THE SERVICE LEVEL AGREEMENT PROVIDED TO YOU, OR INCLUDED WITHIN OR ATTACHED TO A SALES ORDER AND SUBJECT TO APPLICABLE LAWS**, YOU AGREE THAT THE SERVICE IS PROVIDED ON AN "AS IS" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE OR NON-INFRINGEMENT OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. YOU FURTHER AGREE THAT ALL USE OF THE SERVICE, INCLUDING, BUT NOT LIMITED TO, THE ACCESSING AND USE OF CONTENT, INFORMATION, AND SERVICES, THE EQUIPMENT AND SOFTWARE, THE PURCHASE OF MERCHANDISE AND SERVICES, THE TRANSMISSION OF INFORMATION AND OTHER COMMUNICATIONS BY AND TO YOU, AND THE DOWNLOADING OF COMPUTER FILES IS AT THE YOUR SOLE RISK. YOU ARE SOLELY RESPONSIBLE FOR THE SUITABILITY OF THE SERVICE CHOSEN. ANY VOLUNTARY SERVICES WE MAY PERFORM FOR YOU AT YOUR REQUEST AND WITHOUT ANY ADDITIONAL CHARGE ARE PROVIDED AS IS. Without limiting the foregoing:

- i. MERIPLEX MAKES NO WARRANTIES AS TO THE PERFORMANCE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY THAT ANY DATA, FILES, OR OTHER COMMUNICATIONS BY OR TO YOU WILL BE TRANSMITTED IN UNCORRUPTED FORM OR WITHIN A REASONABLE PERIOD OF TIME, THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE, OR AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICE.
- ii. MERIPLEX NEITHER ENDORSES OR WARRANTS, NOR SHALL IT BE RESPONSIBLE IN ANY REGARD FOR ANY MERCHANDISE OR SERVICES ORDERED THROUGH THE INTERNET OR ANY SECURITIES TRADING OR OTHER COMMERCIAL TRANSACTIONS, WHETHER OR NOT SUCH MERCHANDISE OR SERVICES OR THE PROVIDERS OF ANY TRANSACTIONAL SERVICES ARE PROMOTED OR MARKETED ON THE INTERNET.
- iii. MERIPLEX DOES NOT WARRANT THE SECURITY OF THE CUSTOMER'S COMMUNICATIONS VIA ITS SERVICES. MERIPLEX DOES NOT WARRANT THAT THIRD PARTIES WILL NOT GAIN UNAUTHORIZED ACCESS TO OR MONITOR THE CUSTOMER'S COMPUTERS OR ONLINE COMMUNICATIONS. YOU AGREE THAT MERIPLEX IS NOT LIABLE FOR ANY SUCH UNAUTHORIZED ACCESS.
- iv. SOFTWARE AND OTHER CONTENT DOWNLOADED VIA THE INTERNET MAY CONTAIN HARMFUL OR DISABLING FEATURES OR CODES SUCH AS VIRUSES. MERIPLEX DOES NOT WARRANT OR UNDERTAKE TO ENSURE THAT COMPUTER FILES RECEIVED VIA THE INTERNET DO NOT OR WILL NOT CONTAIN ANY VIRUS OR OTHER HARMFUL OR DISABLING CODE OR FEATURE, AND EXPRESSLY DISCLAIMS ANY LIABILITY FOR DAMAGE TO OR LOSS OR DESTRUCTION OF HARDWARE, SOFTWARE, FILES, OR DATA RESULTING FROM THE SAME.

b. YOU UNDERSTAND THAT THE INSTALLATION, USE, INSPECTION, MAINTENANCE, REPAIR, REPLACEMENT, OR REMOVAL OF THE SERVICE, EQUIPMENT, AND/OR SOFTWARE COULD RESULT IN DAMAGE TO YOUR COMPUTERS, OTHER HARDWARE, SOFTWARE, AND/OR DATA FILES. YOU ARE SOLELY RESPONSIBLE FOR BACKING UP ALL EXISTING COMPUTER FILES PRIOR TO THE PERFORMANCE OF ANY OF THE FOREGOING ACTIVITIES. MERIPLEX IS NOT LIABLE FOR AND EXPRESSLY DISCLAIMS ANY RESPONSIBILITY WHATSOEVER FOR ANY DAMAGE TO OR LOSS OR DESTRUCTION OF ANY SOFTWARE, HARDWARE, DATA OR FILES UNLESS CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF MERIPLEX OR ITS EMPLOYEES.

c. NOTWITHSTANDING ANY PROVISION IN THIS AGREEMENT TO THE CONTRARY, IN NO EVENT WILL MERIPLEX, ITS EMPLOYEES OR ITS AUTHORIZED AGENTS, CONTRACTORS OR REPRESENTATIVES WHO ARE INVOLVED IN CREATING, PRODUCING OR DISTRIBUTING THE SERVICE, INCLUDING THE CONTENT, THE EQUIPMENT, OR THE SOFTWARE, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF THE USE OF OR INABILITY TO USE THE SERVICE, ACTION TAKEN TO PROTECT THE SERVICE, OR THE BREACH OF ANY WARRANTY. Company reserves the right to refuse credit allowances for interruptions of Services not within its control or which are the fault of Customer, or if Customer is at the time of such interruption, in default of any of the terms of this Agreement. Company also reserves the right to modify or discontinue, temporarily or permanently, at any time and from time to time, the Services (or any function or feature of the Services or any part thereof) without liability, although Customer's billing will be adjusted appropriately to reflect any such changes. Customer's sole and exclusive remedy and Meriplex's entire liability for direct damages as a result of a breach of any warranty or any claim related to the services shall be the granting of credits pursuant to the foregoing provisions or applicable SLAs as described above. IF, DESPITE THE FOREGOING LIMITATIONS, COMPANY IS SOMEHOW HELD LIABLE FOR DAMAGES IN EXCESS OF THE FOREGOING, COMPANY'S TOTAL LIABILITY TO CUSTOMER FOR ANY AND ALL CLAIMS RELATING TO THE SERVICES OR THIS AGREEMENT SHALL NOT EXCEED THE AMOUNT OF SERVICE FEES PAID DURING THE IMMEDIATELY PRECEDING ONE (1) MONTH PERIOD. CUSTOMER HEREBY RELEASES COMPANY FROM ANY AND ALL OBLIGATIONS, LIABILITIES, AND CLAIMS IN EXCESS OF THIS LIMITATION.

d. THE CUSTOMER ACKNOWLEDGES THAT THE PROVISIONS OF THIS SECTION APPLY TO ALL CONTENT AND SERVICES INCLUDED IN, ACCESSIBLE THROUGH, OR PROVIDED BY MERIPLEX, AND ARE FOR THE BENEFIT OF AND MAY BE ENFORCED BY MERIPLEX.

e. THE SECURITY OF YOUR COMPUTERS IS YOUR RESPONSIBILITY. YOU AGREE THAT NEITHER MERIPLEX NOR ANY OF MERIPLEX'S AUTHORIZED VENDORS, AGENTS OR AFFILIATES SHALL BE RESPONSIBLE FOR ANY BREACH OR BREAK-IN ON YOUR SYSTEM OR NETWORK.

14. Release and Indemnification

YOU AGREE TO RELEASE, DEFEND, INDEMNIFY AND HOLD HARMLESS MERIPLEX FROM AND AGAINST ANY AND ALL LIABILITY, INCLUDING ANY LIABILITY CAUSED BY MERIPLEX'S OWN FUTURE NEGLIGENCE, AND AGAINST ANY AND ALL CLAIMS, COSTS, LIABILITIES OR EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES, ARISING OUT OF OR RELATED IN ANY WAY TO YOUR USE OF THE SERVICE OR OTHERWISE ARISING OUT OF THE USE OF YOUR ACCOUNT OR THE EQUIPMENT OR THE SOFTWARE; PROVIDED THAT YOU SHALL NOT BE OBLIGATED TO INDEMNIFY MERIPLEX FOR ANY CLAIMS, LIABILITIES, COSTS OR EXPENSES TO THE EXTENT RESULTING FROM THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF MERIPLEX.

YOUR USE OF THE SERVICE CONSTITUTES AN ACKNOWLEDGMENT AND AN AGREEMENT THAT THE RELEASE, INDEMNIFICATION, AND LIMITATION OF LIABILITY PROVISIONS CONTAINED IN THESE TERMS AND CONDITIONS ARE CONSPICUOUS AND COMPLY WITH THE EXPRESS NEGLIGENCE RULE.

15. Acceptable Use Policy

Customer understands and agree that use of services provided pursuant to this Agreement is subject to Meriplex's Acceptable Use Policy, as may be amended from time to time, which can be found at www.meriplex.com/acceptable_use_policy.htm, or may be requested by contacting Meriplex at 866.637.4235.

16. Entire Agreement

These Terms and Conditions, the customer's Sales Order, and the Acceptable Use Policy constitute the entire agreement between Meriplex and the customer, and supersede all previous written or oral agreements between Meriplex and the customer. Acceptance of Meriplex 's service shall constitute acceptance of these Terms and Conditions. This Agreement shall not be construed in favor of, or against, either party.

17. Choice of Law and Forum

This Agreement is to be governed and construed under the laws of the State of Texas, excluding its conflicts of law rules. Subject to the arbitration provisions contained herein, you expressly agree that the exclusive jurisdiction for any claim or action arising out of or relating to this Agreement, or which arises from any use or misuse of Meriplex's or any other web site by you, shall be filed only in the courts of Harris County, Texas. You further agree and submit to the exercise of personal jurisdiction of such courts for the purpose of litigating any such claim or action. Customer waives all rights to bring any claim, suit or proceeding more than one (1) year after the date the cause of action arose.

18. Severability

If any provision of these Terms and Conditions , the customer's Sales Order, or the Acceptable Use Policy is found by a court of competent jurisdiction to be invalid or unenforceable, the remainder shall continue in full force and effect.

19. No High Risk Use

You may not use the Services in any situation where failure or fault of the 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, the Services 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.

20. Ownership of Intellectual Property

Each of us retains all right, title and interest in and to our respective trade secrets, inventions, copyrights, and other intellectual property. Any intellectual property developed by Meriplex during the performance of the Services shall belong to Meriplex unless we have agreed with you in advance in writing that you shall have an interest in the intellectual property.

21. IP Addresses

Upon expiration or termination of the Agreement, you must discontinue use of the Services and relinquish use of the IP addresses and server names assigned to you by Meriplex in connection with Services, including pointing the DNS for your domain name(s) away from Meriplex Services. You agree that Meriplex may, as it determines necessary, make modifications to DNS records and zones on Meriplex managed or operated DNS servers and services.

22. Assignment/Subcontractors

You may not assign your rights or obligations under this Agreement or any Sales Order(s) to any other person or entity, or to a different location, without Meriplex's prior written consent of approval; such consent will not be unreasonably withheld. You agree to pay for any charges associated with the move, assignment or transfer. This Agreement shall apply to any permitted transferees or assignees. We may assign the Agreement in whole or in part to an Affiliate with sufficient financial standing in order to meet its obligations under this Agreement or as part of a corporate reorganization or a sale of our business, and we may transfer your Confidential Information as part of any such transaction. Meriplex may use third party service providers to perform all or any part of the Services, but Meriplex remains responsible to you under this Agreement for work performed by its third party service providers to the same extent as if Meriplex performed the Services itself.

23. Service Optimization and Repairs

By using Meriplex Cloud Services, you agree that we may establish new procedures for your use of the Services as we deem necessary for the optimal performance of the Services. By using Cloud Servers, you also agree that we may migrate your data if we determine in our reasonable judgment that server migration is required to remediate service degradation.

At Meriplex 's expense, it will repair or replace damaged equipment, modify software, and otherwise attempt to correct interruptions of the service due to reasonable equipment wear and tear or technical malfunction of the system or network operated by Meriplex. At your expense, Meriplex may repair or replace damaged equipment, modify software, and otherwise attempt to correct interruptions of the service due to your, your agents', contractors and/or your employees' actions or omissions. You are solely responsible for the operation, security, repair, and maintenance of your own equipment and software.

24. Termination

Customer may terminate this Agreement and the applicable Sales Order(s) issued under this Agreement only if Meriplex breaches a material term of this Agreement and fails to cure such breach no later than thirty (30) days' after receipt of written notice thereof by Customer. For purposes of this Section 17, a breach of a material term means the failure to achieve any of the service level agreements for any three consecutive months in a calendar year during the term of the applicable Sales Order hereunder, as documented by the appropriate written requests for credits within thirty (30) days of the occurrence.

In addition to rights granted to Meriplex in other provisions of this Agreement, Meriplex shall have the right to suspend services or terminate this Agreement and services (i) for customer's breach of any of the provisions of this Agreement, (ii) for customer's violation of Company's Acceptable Use Policy; and (iii) if Meriplex discovers that customer has provided to Company false or materially misleading information.

If you discontinue service other than as provided in this, you are in material breach of this Agreement, or the service is discontinued for account past due, you will be required to pay all outstanding charges and all charges due or to become due over the remaining balance of the current term of the Sales Order. If you want to reconnect, you will be required to pay all outstanding balances and you may be required to pay a reconnect charge or trip charge before re-connection. Such charges include, but are not limited to, charges charged Meriplex by its vendors to re-connect service.

25. Force Majeure

Meriplex is not liable, nor shall any credit allowance or other remedy be extended, for interruption of the service nor for any loss or damage, whether direct, indirect, special, or consequential, that may result from interruption of the service due to circumstances beyond Meriplex's control, including without limitation, acts of God, flood, natural disaster, regulation or governmental acts, fire, civil disturbance, strike or weather.