

WRAPMAIL TERMS AND CONDITIONS

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY. BY CLICKING ON ANY SIGNUP BUTTON OR OTHERWISE INTERACTING WITH OUR WEBSITE AND SOFTWARE YOU ARE AGREEING TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND ALL TERMS AND CONDITIONS INCORPORATED BY REFERENCE IN THIS AGREEMENT.

1. SERVICES:

WRAPMAIL provides the following services (“SERVICES”) provided that CUSTOMER pays the fees set forth in Section 3 below:

Provide Access to WRAPMAIL Website: Upon accepting this contract, WRAPMAIL shall provide to CUSTOMER access to the WRAPmail Dashboard via a log-in name and password. On the site, CUSTOMER will be able to and shall be responsible for all user information input and settings. Anything ordered through the dashboard is non-refundable.

2. CUSTOMER’S RESPONSIBILITIES:

- a. If CUSTOMER requires assistance from WRAPMAIL for creation and/or revisions to WRAP(s) that it cannot complete via the DASHBOARD, CUSTOMER must provide to WRAPMAIL all WRAP MATERIAL in the format specified by WRAPMAIL and within the time requested by WRAPMAIL. Customer will pay the required fee to WRAPmail for these services through the DASHBOARD
- b. Provide INSTRUCTIONS for WRAPPING Emails: CUSTOMER shall input into the DASHBOARD on WRAPMAIL’s website all INSTRUCTIONS for wrapping its emails, including which WRAP to use for which addressees, when to use which WRAP for which addressees, when to change Wraps, and the like. CUSTOMER is responsible for entering all relevant information into the DASHBOARD and updating such information as necessary. WRAPMAIL shall have no responsibility or liability with regard to INSTRUCTIONS that are to be provided by CUSTOMER. CUSTOMER acknowledges and agrees that CUSTOMER shall pay WRAPMAIL the fee set forth in Section 4(a).
- c. If CUSTOMER employs independent agents, CUSTOMER hereby grants WRAPMAIL the right to give such agents access to and use of CUSTOMER’s WRAPs in connection with their work for CUSTOMER via the agents’ WRAPMAIL account, unless CUSTOMER notifies WRAPMAIL in writing that its agents shall not have the right to use its WRAPs.

3. FEES & PAYMENTS:

- a. **INDIVIDUAL:** \$50.00 Annual license

- b. **BUSINESS:** \$299.00 Annual license, up to five (5) users, additional users will be billed at a rate of \$23.88 annually.
- c. **ENTERPRISE:** Annual license based on client requirements.
- d. **SITE PURCHASES:** All purchases made on WRAPmail site are non-refundable

4. TERM; TERMINATION; CANCELLATION POLICY.

- a. **TERM:** The initial term of this Agreement shall be one (1) year (the "Initial Term"). The Initial Term shall begin on the date that CUSTOMER signs up. After the Initial Term, this Agreement shall automatically renew for successive terms of one (1) year, unless the CUSTOMER elects not to renew the license agreement. The Initial Term and all successive renewal periods shall be referred to, collectively, as the "Term". **THERE ARE NO REFUNDS AFTER A CUSTOMER HAS SIGNED UP AND PAID FOR A TERM OF SERVICE:**

- b. **TERMINATION:** This Agreement may be terminated by WRAPMAIL, at any time, without notice, if, in WRAPMAIL's judgment, CUSTOMER's use of the SERVICE disrupts or could disrupt WRAPMAIL's business operations and (iv) by WRAPMAIL if WRAPMAIL reasonably believes that CUSTOMER's emails or other actions may violate any local, state or federal law or ordinance or any other applicable law or regulation such as but not limited to SPAMMING.

- b. **AMENDMENTS TO AGREEMENT:** WRAPMAIL may amend, modify or update this Agreement at any time in its sole discretion, and CUSTOMER shall be bound by any such amendments, modifications or updates. WRAPMAIL may, but is under no obligation to, provide notice of any amendment, modification or update of this Agreement. Any modification is effective ten days after the sending of a notice by WRAPMAIL to CUSTOMER by e-mail or conventional mail. If any material modification to this Agreement is unacceptable to CUSTOMER, CUSTOMER may terminate this Agreement as provided in Section 6b. However, if CUSTOMER does not terminate the Agreement, or if CUSTOMER continues to use the Services following effectiveness of the modification, such continued use will mean that CUSTOMER has accepted that modification. WRAPMAIL reserves the right to amend its service offerings and add, delete, suspend or modify the terms and conditions of the SERVICES, at any time and from time to time, and to determine whether and when any such changes apply to both existing and future customers.

5. INTELLECTUAL PROPERTY RIGHTS:

WRAPMAIL owns all right, title and interest in and to the SERVICES and WRAPMAIL's trade names, trademarks, service marks, inventions, copyrights, trade secrets, patents, know-how and other intellectual property rights relating to the design,

function, marketing, promotion, sale and provision of the SERVICES and the related hardware, software and systems ("IP"). Nothing in this Agreement constitutes a license to Customer to access or use without permission, reverse engineer or resell the IP.

6. CUSTOMER LIABILITY; REPRESENTATIONS & WARRANTIES:

a. CUSTOMER'S ACCEPTANCE OF LIABILITY:

- i. CUSTOMER shall be solely responsible for the content of its emails including (i) the accuracy and appropriateness of the email content, and (ii) ensuring that the email content is not defamatory, pornographic or otherwise illegal. CUSTOMER shall be responsible for the security and confidentiality of any information that Customer may send or receive via its email.

b. CUSTOMER'S REPRESENTATIONS & WARRANTIES:

- i. **WRAP MATERIAL:** CUSTOMER represents and warrants to WRAPMAIL that Customer owns or has the right to use the WRAP MATERIAL including the text, graphics, pictures, logos, video and/or sound and music and all programming, scripts and applets supplied by CUSTOMER to WRAPMAIL either via email, upload or otherwise, for creation or revision of its WRAP(S) and CUSTOMER represents and warrants that the use, reproduction, distribution and transmission of the WRAP MATERIAL and any information and materials contained therein does not, and will not, (i) infringe or misappropriate any copyright, patent, trademark, trade secret or any other proprietary right of a third party, (ii) violate any criminal laws or constitute false advertising, unfair competition, defamation, an invasion of privacy, violate a right of publicity or violate any other law or regulation. Customer grants WRAPMAIL the rights to reproduce, copy, modify, alter, use and distribute all and any portion of the WRAP MATERIAL to the extent needed to provide and operate the SERVICES.
- ii. **CUSTOMER ACTIONS:** CUSTOMER represents and warrants to WRAPMAIL that CUSTOMER will not engage in the following actions in connection with the use of WRAPMAIL SERVICES:
 1. **SPAMMING:** including sending unsolicited bulk and/or commercial message over the Internet or maintaining an open SMTP policy.
 2. **MISREPRESENTATION OF TRANSMISSION INFORMATION:** including forging, misrepresenting, omitting, or deleting message headers, return mailing information and/or Internet protocol addresses to conceal or misidentify the origin of a message;

3. **SENDING VIRUSES OR ENGAGING IN OTHER DESTRUCTIVE ACTIVITIES:** including creating or sending Internet viruses, worms or Trojan horses; pinging, flooding or mailbombing; engaging in denial of service attacks; engaging in other activity that is intended to disrupt or interfere with, or that results in the disruption of or interference with, the ability of others to effectively use the SERVICES, their email or conduct their business over the Internet.

7. WRAPMAIL'S DISCLAIMER OF LIABILITY & WARRANTY:

CUSTOMER agrees to use all SERVICES and any information obtained through or from WRAPMAIL at CUSTOMER's own risk. CUSTOMER acknowledges and agrees that WRAPMAIL is not responsible for any loss, delay, misdirection, corruption or destruction of any email sent by CUSTOMER that passes through WRAPMAIL's WRAPServers or that is using a WRAPmail toolbar. CUSTOMER acknowledges and agrees that WRAPMAIL is not responsible for email which is not delivered because WRAPMAIL has terminated this Agreement for non-payment. CUSTOMER acknowledges and agrees that WRAPMAIL exercises no control over, and accepts no responsibility for the content of the emails passing through WRAPMAIL's WRAPServers. THE SERVICES PROVIDED UNDER THIS AGREEMENT ARE PROVIDED ON AN AS IS, AS AVAILABLE BASIS. NEITHER WRAPMAIL, ITS PARENT, SUBSIDIARY OR AFFILIATED CORPORATIONS, NOR ANY OF THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, AFFILIATES, AGENTS, SUPPLIERS, THIRD-PARTY INFORMATION PROVIDERS, MERCHANTS, LICENSORS OR THE LIKE (EACH, AN "WRAPMAIL PERSON") MAKE ANY WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT, FOR THE SERVICES OR ANY EQUIPMENT WRAPMAIL PROVIDES. NO WRAPMAIL PERSON MAKES ANY WARRANTIES THAT THE SERVICES WILL NOT BE INTERRUPTED OR ERROR FREE; NOR DO ANY OF THEM MAKE ANY WARRANTIES AS TO THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES OR AS TO THE ACCURACY, RELIABILITY OR CONTENT OF THE SERVICES. WRAPMAIL IS NOT LIABLE, AND EXPRESSLY DISCLAIMS ANY LIABILITY, FOR THE CONTENT OF ANY DATA TRANSFERRED EITHER TO OR FROM CUSTOMER VIA THE SERVICES PROVIDED BY WRAPMAIL. NO ORAL ADVICE OR WRITTEN INFORMATION GIVEN BY ANY WRAPMAIL PERSON WILL CREATE A WARRANTY; NOR MAY CUSTOMER RELY ON ANY SUCH INFORMATION OR ADVICE. The terms of this section shall survive any termination of this Agreement.

8. LIMITATION OF LIABILITY.

Customer agrees that no WRAPMAIL Person, under any circumstances, shall be held responsible or liable for situations where the SERVICES are accessed by third parties through illegal or illicit means, including situations where such data is accessed through

the exploitation of security gaps, weaknesses or flaws (whether known or unknown to WRAPMAIL at the time) which may exist in the SERVICES or in WRAPMAIL's equipment used to provide the SERVICES.

Under no circumstances, including negligence, shall any WRAPMAIL Person be liable for any indirect, incidental, special, consequential or punitive damages, or loss of profits, revenue, data or use by CUSTOMER or any other third party, whether in an action in contract or tort or strict liability or other legal theory, even if WRAPMAIL has been advised of the possibility of such damages. No WRAPMAIL Person shall be liable to CUSTOMER or any other third party, for any losses or damages that result or are alleged to have resulted from the use of or inability to use the SERVICES, or that results from mistakes, omissions, interruptions, deletion of files, loss of data, errors, viruses, defects, delays in operations, or transmission or any failure of performance, whether or not limited to acts of God, communications failure, theft, destruction or unauthorized access to WRAPMAIL's records, programs, equipment or services.

Notwithstanding anything to the contrary in this Agreement, WRAPMAIL's maximum liability under this Agreement for all damages, losses, costs and causes of actions from any and all claims (whether in contract, tort, including negligence, quasi-contract, statutory or otherwise) shall not exceed the actual dollar amount paid by Customer for the Services which gave rise to such damages, losses and causes of actions during the 12-month period prior to the date the damage or loss occurred or the cause of action arose.

This limitation of liability reflects an informed, voluntary allocation between the parties of the risks (known and unknown) that may exist in connection with this Agreement. The terms of this section shall survive any termination of this Agreement.

9. INDEMNIFICATION.

Customer agrees to indemnify, defend and hold harmless WRAPMAIL and its parent, subsidiary and affiliated companies, 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) CUSTOMER's use of the Services, (ii) CUSTOMER's act of "spamming" or sending unsolicited emails en masse; (iii) any breach of any representation, warranty or covenant of Customer contained in this Agreement including but not limited to CUSTOMER's unauthorized use of a third party's material for its WRAP(s); (iv) any acts or omissions of Customer. The terms of this section shall survive any termination of this Agreement.

10. FORCE MAJEURE:

WRAPMAIL shall not be liable for failure or delay in performing its obligations hereunder if such failure or delay is due to circumstances beyond its reasonable control,

including, without limitation, acts of any governmental body, war, insurrection, sabotage, embargo, fire, flood, strike or other labor disturbance, interruption of or delay in transportation, unavailability of, interruption or delay in telecommunications or third party services, failure of third party software or hardware or inability to obtain raw materials, supplies or power used in or equipment needed for provision of the SERVICES.

11. GOVERNING LAW; JURISDICTION; ARBITRATION.

This Agreement shall be governed in all respects by New York law without regard to the conflict of law provisions thereof. Both parties submit to personal jurisdiction in the State of New York. Any controversy or claim arising out of, relating to or in connection with this Agreement, or the breach thereof, shall be subject to arbitration administered by the American Arbitration Association ("AAA") in accordance with its then existing Commercial Arbitration Rules (collectively, the "AAA Rules") and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The place of arbitration shall be New York, New York, or any other place selected by mutual agreement of the parties. An award rendered in connection with an arbitration pursuant to this Section shall be final and binding upon the parties and the parties agree and consent that the arbitral award shall be conclusive proof of the validity of the determinations of the arbitrations set forth in the award, and any judgment upon such an award may be entered and enforced in any court of competent jurisdiction. The parties agree that the award of the arbitral tribunal will be the sole and exclusive remedy regarding any and all claims and counterclaims between them with respect to the subject matter of the arbitrated dispute. The parties hereby waive all in personam jurisdictional defenses in connection with any arbitration hereunder or the enforcement of an order or award rendered pursuant thereto. In any legal action, the prevailing party will be entitled to recover all legal expenses incurred in connection with the action, including but not limited to its costs and reasonable attorney's fees. The terms of this section shall survive any termination of this Agreement.

12. ASSIGNMENT.

Customer shall not have the right to assign this Agreement without the prior written consent of WRAPMAIL. This Agreement shall be binding upon and inure to the benefit of Customer and WRAPMAIL and their successors and permitted assigns.

13. MARKETING AND PROMOTION:

CUSTOMER grants to WRAPMAIL the right to use one of its WRAPS for WrapMail's promotional purposes, including but not limited to displaying the WRAP on the WRAPMAIL website and sending the WRAP to potential customers of WRAPMAIL to demonstrate WrapMail's service offering. CUSTOMER grants to WRAPMAIL the right to use its name and logo on WRAPMAIL's website and in its marketing material stating that CUSTOMER is a customer of WRAPMAIL.

14. ENTIRE AGREEMENT; SEVERABILITY.

This Agreement, together with any other documents or agreements specifically identified in this Agreement, represents the entire agreement between the parties, and supersedes all previous representations, understandings or agreements. If any provision of this Agreement shall be held by a court of competent jurisdiction to be invalid, unenforceable, or void, the remainder of this Agreement shall remain in full force and effect.

The person signing up on behalf of CUSTOMER hereby represents that he or she is over the age of 18, is duly authorized to accept, execute and deliver this Agreement on behalf of his or her company; that the CUSTOMER is either a natural person or a corporation, limited liability company, partnership or other legal entity which is duly organized, validly existing and in good standing under the laws of the state and/or country of its organization.