

Website Hosting and Design Terms of Services

Guarantee Digital, LLC a subsidiary of Beasley Media Group, LLC

Last updated: [October 31, 2022]

THESE TERMS OF SERVICE CONTAIN IMPORTANT INFORMATION REGARDING YOUR RIGHTS AND OBLIGATIONS, AS WELL AS CONDITIONS, LIMITATIONS, AND EXCLUSIONS THAT MIGHT APPLY TO YOU. PLEASE READ THEM CAREFULLY. THESE TERMS REQUIRE THE USE OF ARBITRATION ON AN INDIVIDUAL BASIS TO RESOLVE DISPUTES, RATHER THAN JURY TRIALS OR CLASS ACTIONS.

These Terms of Service, including Client's Order (defined below), represent and constitute the entire agreement (this "Agreement") between Guarantee Digital, LLC a subsidiary of Beasley Media Group, LLC ("Guarantee Digital") and you ("Client") and is effective as of the date of execution of Client's Order. Guarantee Digital and the Client are referred to in this Agreement collectively as the "Parties" and individually as a "Party."

Agreement

1. Definitions.

1.1. "Guarantee Digital-Furnished Material" means, collectively: (i) the Guarantee Digital Platform and all contents, materials, elements, features and functionalities thereof, but excluding Client-Furnished Material contained therein; (ii) all Guarantee Digital names, marks, logos, designs and brand images; (iii) all links and advertisements provided by Guarantee Digital; (iv) all Guarantee Digital Systems and all hardware, software, tools, technologies, processes, methods, techniques and know-how provided by Guarantee Digital (whether for use by Guarantee Digital or Client or otherwise) in the rendering of the Services; and (v) all results, work products and deliverables of the Services (including, without limitation, all Client Properties source code, object code, HTML files, Java files, data files, scripts, programs, templates, user interface designs, themes, page layouts and look and feel, and documentation created by Guarantee Digital), but excluding Client-Furnished Material contained therein.

1.2. "Guarantee Digital Platform" means Guarantee Digital's platform found at www.guaranteedigital.com.

1.3. "Guarantee Digital Systems" means all computer servers, networks and systems owned, controlled or operated by Guarantee Digital and/or its corporate affiliates in connection with the rendering of the Services, including, without limitation, those associated with the Guarantee Digital Platform.

1.4. "Client-Furnished Material" means, collectively: (i) the domain name for the Client Website; (ii) any names, passwords and other account access information for any of the Social Media Sites and Location-Based Sites created by or for Client; (iii) all information, data, content and material furnished by Client for storage, use, reproduction, posting, display, exhibition, transmission, publication and/or distribution (as the case may be) whether on or via the Client Properties, the Guarantee Digital Systems, or otherwise, including, without limitation, names, marks, logos, designs, slogans, text, writings, publications, artwork, graphics, images, photos, animations, videos, audios, links, software and social media plug-ins; and (iv) all hardware, software and other goods and services procured and maintained by Client pursuant to Section 2.14 of this Agreement.

1.5. "Client Properties" means, collectively, the Client Website, the Social Media Sites and Location-Based Sites (as applicable).

1.6. "Client Website" means the consumer-facing website of Client as designed (whether by Client using the Guarantee Digital design tools or otherwise), constructed and hosted by Guarantee Digital pursuant to this Agreement.

1.7. "Excused Outage" means any outage, unavailability, interruption, delay or degradation of the Services or the Client Website resulting from or caused by any of the following: (i) scheduled downtime, maintenance

or repair; (ii) any act or omission by Client or anyone acting under its authority or on its behalf; (iii) any Client-Furnished Material; (iv) any User-Generated Material; or (v) Force Majeure.

1.8. “Force Majeure” means a cause or event that is beyond the reasonable control of Guarantee Digital and could not reasonably have been foreseen or avoided, including, without limitation, third-party network or system outage, hacking, virus attack or other form of sabotage, Acts of God, acts of government, strikes, lockouts, riots, insurrection, civil commotion, war and terrorist attacks.

1.9. “IP” means any and all forms of intellectual property, including, without limitation, patent, trade secret, copyright and trademark.

1.10. “Location-Based Sites” means the local business listing for Client on certain leading location-based websites selected by Guarantee Digital in its sole discretion. The Location-Based Sites may (but are not required to) include Google, Bing, Yahoo, MapQuest and Yelp.

1.11. “Order” means Client’s order to subscribe for the Services.

1.12. “Social Media Sites” means certain social media sites selected by Guarantee Digital in its sole discretion. The Social Media Sites may include, without limitation, Facebook, LinkedIn, TikTok, Twitter and YouTube.

1.13. “User” means any individual who visits or uses the Client Website but excludes each of the Parties and anyone who uses the Client Website on behalf of a Party.

1.14. “User-Generated Material” means any content or material uploaded, posted, submitted or transmitted by a User on or via the Client Website.

2. **Services.**

2.1 **Services.** Subject to the terms and conditions of this Agreement, Guarantee Digital will provide services set forth on Client’s Order. Guarantee Digital reserves the right to add Services or modify and replace with a substantially-similar Service from time-to-time in its sole discretion. Guarantee Digital agrees to use commercially reasonable efforts to ensure that during the Term, the Client Website will be operational and accessible to Users 99.9% of the time, except during any Excused Outage.

2.2 **Account Information.** Following the effectiveness of this Agreement, Guarantee Digital shall issue account credentials (e.g., user login ID and password) to certain employees and independent contractors of Client as agreed to from time to time by the Parties (each, a “Designated Employee”) in order for such Designated Employees to be able to access the Guarantee Digital Platform. Each Designated Employee will only be permitted to access the Guarantee Digital Platform using his or her account credentials that have been assigned to him or her. No Designated Employee may disclose his or her credentials to any third party (including any other employee or independent contractors of Client), and Client shall be responsible for any access to the Guarantee Digital Platform by its Designated Employees or by third parties using the account credentials of any of Client’s Designated Employees. Client shall promptly notify Guarantee Digital if Client believes a Designated Employee’s account credentials have been compromised.

2.3 **Subcontractors.** Client acknowledges and agrees that Guarantee Digital may, in its sole discretion, use one or more third-party contractors (each, a “Subcontractor”) to provide some portions of the Services and/or other services related to the operations of the Guarantee Digital Platform and/or the Client Properties, which may include, without limitation, data processing and storage, data security, technical support, purchase and payment processing, order fulfillment, and other e-commerce related functions.

2.4 **Feedback.** If Client provides Guarantee Digital with any feedback or suggestions regarding the Services (“Feedback”), Client hereby assigns to Guarantee Digital all rights in and to such Feedback and agrees that Guarantee Digital shall have the right to use and fully exploit such Feedback and related information in any manner it deems appropriate. Guarantee Digital will treat any Feedback Client provides to Guarantee Digital as non-confidential

and non-proprietary. Client agrees that it will not submit to Guarantee Digital any information or ideas that it consider to be confidential or proprietary.

2.5 Reservation of Right. Notwithstanding anything herein to the contrary, Client acknowledges and agrees that Guarantee Digital shall have the absolute right, at any time and with or without notice to Client, to (i) suspend, disable, block, restrict or limit access to the Client Website or any portion thereof and/or (ii) take down and remove any content or material (including, without limitation, any Client-Furnished Material, any User-Generated Material, or any Guarantee Digital-Furnished Material) from the Client Website, if doing so, in Guarantee Digital's sole judgment, is necessary or advisable in order to comply with any applicable law or regulation or to protect Guarantee Digital or its corporate affiliates from actual or potential claims or liabilities, or for any content or material which Guarantee Digital determines is offensive (including any pornographic images, any foul language, disparaging remarks, references to illegal substances, derogatory remarks regarding the religion, sexuality, politics, appearances or other characteristics or beliefs of any other person or entity, etc.), or infringes, misappropriates or violates any IP or other right of any person or entity.

2.6 Guarantee Digital-Furnished Material. Subject to the terms and conditions of this Agreement, Guarantee Digital hereby grants to Client a non-exclusive, non-transferable, non-sublicensable, limited right and license to use Guarantee Digital-Furnished Material solely for the purposes of receiving the Services from Guarantee Digital and operating the Client Properties during the Term.

2.7 Client-Furnished Material. Subject to the terms and conditions of this Agreement, Client hereby grants to Guarantee Digital a non-exclusive, non-transferable, non-sublicensable (except to a Subcontractor), limited right and license to use, reproduce, post, display, exhibit, transmit, publish and/or distribute (as the case may be) Client-Furnished Material solely for the purposes of providing the Services to Client during the Term in connection with the Client Properties. Client represents and warrants that: (i) it has the right to furnish and authorize use of Client-Furnished Material by Guarantee Digital in accordance with this Agreement and (ii) no Client-Furnished Material will infringe upon or violate any right of any third party.

2.8 Domain Names. Client shall, promptly after the Effective Date, give Guarantee Digital full access to the domain name account and authorize Guarantee Digital to maintain and manage the account during the Term. Upon the expiration or termination of this Agreement, Guarantee Digital shall turn over the control of the Client Website domain name to Client.

2.9 Legal Notices. Client agrees to maintain terms of use and a privacy policy on the Client Website that complies with the terms and conditions of this Agreement and applicable law and regulations.

2.10 User Personal Information. To the extent Users can register, open an account, make a purchase, or otherwise disclose their personal information (i.e. information that is personally identifiable of a User, which may include name, email address, phone number, mailing address, date/year of birth, and credit card or other payment account information) (collectively "User Personal Information") on the Client Website, the Parties acknowledge and agree that all User Personal Information collected on or from the Client Website shall be owned by Client and may be used by Client in accordance with the Client's privacy policy. Client acknowledges and agrees that: (i) it shall assume full responsibility for the safeguarding of the security of all User Personal Information in its possession or control and (ii) it shall comply with its privacy policy all applicable laws and regulations pertaining to the privacy or security of User Personal Information, and shall cause all those acting under its authority or on its behalf to do the same.

2.11 User Aggregate Data. Client acknowledges and agrees that Guarantee Digital may (whether directly or through one or more Subcontractors) collect and derive aggregate data (i.e., information that does not identify any User individually, such as site traffic data and anonymous demographic information about Users) from the Client Properties, and that all such aggregate data shall become the property of Guarantee Digital and may be freely used by Guarantee Digital and its corporate affiliates for any and all lawful purposes.

2.12 Restrictions on Use. Client (including all those acting under its authority or on its behalf) may not use the Services or the Client Properties or any Guarantee Digital-Furnished Material, other than for Client's own legitimate and lawful business purposes and in a manner that complies with this Agreement and all applicable laws and regulations. Without limiting the generality of the foregoing, Client (including all those acting under its authority

or on its behalf) shall not: (i) use any of the Services or the Client Properties or any Guarantee Digital-Furnished Material to engage in fraudulent, deceptive or misleading activities or practices; (ii) use any of the Services or the Client Properties or any Guarantee Digital-Furnished Material to engage in infringement, misappropriation or violation of any IP or other rights of any person or entity; (iii) use any of the Services or the Client Properties or any Guarantee Digital-Furnished Material to engage in spam or transmission or distribution of unsolicited commercial messages in violation of applicable laws or regulations; (iv) use or handle any User Personal Information in violation of the published Privacy Policy for the Client Website or any applicable law or regulation pertaining to the privacy or security of User Personal Information; (v) use any of the Services or the Client Properties or any Guarantee Digital-Furnished Material to offer or promote illegal, unlawful, violent, harassing, discriminatory, derogatory, defamatory, libelous, pornographic, obscene, sexual, vulgar, or otherwise objectionable or offensive content or activities; (vi) use any of the Services or the Client Properties or any Guarantee Digital-Furnished Material in violation of U.S. export control laws or regulations; (vii) copy, reproduce, distribute, sell or resell, or prepare derivative works from, any of the Services or the Client Properties or any Guarantee Digital-Furnished Material; (viii) reverse-engineer, decompile or disassemble the Client Properties or any Guarantee Digital-Furnished Material; (ix) alter, modify, remove, deface or otherwise tamper with any Guarantee Digital legal notices that appear on or within the Client Properties or any Guarantee Digital-Furnished Material; (x) use any of the Services to advertise or sell cannabis or cannabis related products; or (xi) solicit, induce, cause or authorize others to do any of the above.

Client acknowledges and agrees that, in the event of any breach or violation of this Section 2.12 by Client or anyone acting under its authority or on its behalf, Guarantee Digital shall be entitled to immediately terminate this Agreement pursuant to Section 4.3(i) of this Agreement.

2.13 Monitoring. Client acknowledges and agrees that Guarantee Digital shall have the right to electronically and remotely monitor Client's use of the Services, the Client Properties and Guarantee Digital-Furnished Material to verify Client's compliance with the terms of this Agreement.

2.14 Hardware. Client shall be solely responsible for procuring and maintaining (including, without limitation, the right to use), at its own expense, all hardware, software, Internet access, network connections, and other goods and services required for Client to access and use the Services and the Client Properties.

2.15 Third-Party Accounts. To the extent that Client is required to provide Guarantee Digital with access to any Social Media Sites, Location-Based Sites, or domain name sites in order for Guarantee Digital to provide the Services, Client shall (a) provide Guarantee Digital with the ability or right to create its own login and passwords on such sites or platforms and (b) not provide to Guarantee Digital any of its login information or passwords.

2.16 CBD and Hemp. To the extent Client provides or requests that Guarantee Digital provide advertising of hemp or CBD related products, Client represents, warrants, and covenants that: (i) Client is located in a state in which it is legal to sell and advertise the products Client will advertise with Guarantee Digital, Client's business complies with that state's laws, including any applicable licensing requirements, and any applicable federal laws, the products Client is selling have been legally produced and distributed and Client is legally authorized to distribute, market, or sell those products under applicable federal and state laws; (ii) the CBD products are derived from industrial hemp grown in compliance with a federal, state, or tribal program in compliance with the Agriculture Improvement Act of 2018 (sometimes called the "2018 Farm Bill") and are properly considered "hemp" as defined in that law; (iii) any advertisements Client provides to Guarantee Digital for publication or included on the Client Website complies with federal and state law, including all restrictions the state places on hemp-CBD-related advertising; (iv) the content of Client's advertisements are not targeted at people under the age of 18 and Client will not attempt to use the Services to target advertisements at people under the age of 18; (v) the content of Client's advertisements does not link hemp-CBD to a disease or health related condition nor claim or imply that hemp-CBD is intended for use in the diagnosis, cure, mitigation, treatment, or prevention of any disease or other health condition, nor claim or otherwise imply that hemp-CBD is intended to affect the structure or any function of the body; and (vi) Guarantee Digital has final approval rights on all advertising content and may reject any advertisement, in its sole discretion for any or no reason.

2.17 Ownership. As between the Parties: (i) all Guarantee Digital-Furnished Material and all IP rights associated therewith shall remain the sole property of Guarantee Digital and all use thereof by Client shall inure to the sole benefit of Guarantee Digital and (ii) all Client-Furnished Material and all IP rights associated therewith shall

remain the sole property of Client and all uses thereof by Guarantee Digital shall inure to the sole benefit of Client.

2.18 **Client Information.** By submitting Client information (including, without limitation, Client's name, address, email, telephone and other contact information, billing and payment information, Passwords and other Client-related information as provided by Client (collectively "Client Account Information") to Guarantee Digital, Client expressly represents and warrants that all Client information submitted is Client's own information and is truthful, current and accurate, and Client further expressly acknowledges and agrees as follows:

(i) Guarantee Digital may collect, store, retain, and use Client Account Information for all purposes related to Guarantee Digital's performance and enforcement of this Agreement, as well as to comply with applicable laws and regulations. Client billing and payment information (e.g. credit card information) will only be used for payment processing and collection purposes related to Client's account with Guarantee Digital and will not be used or stored for any other purposes (except as expressly otherwise stated).

(ii) Guarantee Digital may disclose Client Account Information (including Client billing and payment information, if applicable) to Subcontractors who need to access such information to perform services for Guarantee Digital, the Guarantee Digital Platform and/or the Client Properties; it being understood that Guarantee Digital will require its Subcontractors to limit their use of Client Account Information solely to the purposes for which the information was disclosed by Guarantee Digital, and to maintain the confidentiality, security and integrity of the information and not make any further disclosure to others.

(iii) Guarantee Digital may disclose Client Account Information (including Client billing and payment information, if applicable) to others if doing so is required by law or, in Guarantee Digital's good faith belief, is reasonably necessary to: (1) comply with legal process (including a court order or subpoena); (2) cooperate with law enforcement; (3) enforce this Agreement or the Legal Notices for the Client Properties; (4) respond to an emergency; or (5) protect the rights, property or safety of Guarantee Digital, Users, and/or the public.

(iv) If Guarantee Digital is sold or transferred to, merged with, or acquired by a third party, Client Account Information may be transferred to such third party as part of the transaction, in which event the privacy policy of such third party may govern further use and disclosure of Client Account Information.

(v) When Client uses the Guarantee Digital Platform, the site servers automatically generate log files that may contain data linked to Client, such as IP addresses, ISP domain names, browser types, operating systems, referring/exit pages, date/time stamps, clickstream data, etc. Also, to the extent Client has enabled "cookies" in its browser, Guarantee Digital may use "cookies" to collect session information about Client's visits and activities on the Guarantee Digital Platform. Guarantee Digital collects and uses log file data and cookie session information for its operational purposes, including for purposes of improving Client experience on the Guarantee Digital Platform, collecting and analyzing traffic and activity data related to the Guarantee Digital Platform, managing Client relations, etc.

(vi) Guarantee Digital may collect and generate aggregate and group information based on Client and others' visits and activities on the Guarantee Digital Platform, or by combining Client-related information with information about Guarantee Digital's other clients. Such aggregate information is anonymous and does not identify Client individually. Guarantee Digital shall be free to use and share with others such aggregate information for market research/analysis, marketing and advertising, and other business purposes.

(vii) Guarantee Digital will use commercially reasonable measures to safeguard Client Account Information, but absolute security cannot be guaranteed. No data transmission over the Internet and no data storage can be 100% secure. Consequently, Guarantee Digital does not warrant or guarantee the security of any information Client transmits to, from or on the Guarantee Digital Platform. Guarantee Digital will endeavor to notify Client in the event Guarantee Digital becomes aware of a breach or suspected breach of the security of Client Account Information as stored by Guarantee Digital. However, it is expressly understood and agreed that Guarantee Digital shall not be liable for any breach of security of Client Account Information resulting from causes or events that are beyond Guarantee Digital's control, including, without limitation, Client's own act or omission, corruption of storage media, defects in third-party data security products or services, power failures, natural phenomena, riots, acts of vandalism, hacking, sabotage, or terrorism.

2.19 **Cookies and Similar Devices.** By entering into this Agreement, Client expressly acknowledges and agrees:

(i) The Guarantee Digital Platform may send cookies, which are small pieces of data, to Client's web browser to facilitate Client's use of the Guarantee Digital Platform. Cookies help Guarantee Digital deliver content specific to Client's interests and permit our servers to recall information from Client's prior visits to the Guarantee Digital Platform. Guarantee Digital may use information collected from cookies in conjunction with other information collected from Client. Guarantee Digital does not, however, use cookies to access information on Client's computer or mobile device. Client may choose whether to accept cookies by adjusting the settings of Client's browser. If Client's browser is set to reject cookies, Client may still enter the Guarantee Digital Platform, but Client may not have full access to all areas of the Guarantee Digital Platform.

(ii) The Guarantee Digital Platform may use other industry standard technologies like pixel tags and web beacons to track Client's use of the Guarantee Digital Platform, and may also allow Subcontractors to use these devices on Guarantee Digital's behalf. Pixel tags and web beacons are tiny graphic images placed on certain pages on the Guarantee Digital Platform or in Guarantee Digital emails that allow Guarantee Digital to determine whether Client has performed a specific action. When Clients access these pages or open or click an email, pixel tags and web beacons generate a non-personally identifiable notice of that action. Pixel tags allow Guarantee Digital to measure and improve understanding of visitor traffic and behavior on the Guarantee Digital Platform, as well as to measure Guarantee Digital's promotions and performances. Guarantee Digital may also utilize pixel tags and web beacons provided by others for the same purposes.

2.20 **Third-Party Links & Ads.** The Services and the Guarantee Digital Platform may contain links to third-party websites and services, and/or display advertisements for third parties (collectively, "Third-Party Links & Ads"). Such Third-Party Links & Ads are not under the control of Guarantee Digital, and Guarantee Digital is not responsible for any Third-Party Links & Ads. Guarantee Digital provides access to these Third-Party Links & Ads only as a convenience to Client, and does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third-Party Links & Ads. Client will use all Third-Party Links & Ads at its own risk, and should apply a suitable level of caution and discretion in doing so. When Client visits any Third-Party Links & Ads, the applicable third party's terms and policies apply, including the third party's privacy and data gathering practices. Client should make whatever investigation it feels necessary or appropriate before proceeding with any transaction in connection with such Third-Party Links & Ads.

2.21 **Additional Terms and Conditions Applicable to WP Engine.** Client acknowledges and agrees to WPEngine's [Terms of Service](#).

3. **Fees and Payment.**

3.1 **Fees.** In consideration for the Services, Client shall pay Guarantee Digital the Fees in the amounts and at the times set forth on the Order to this Agreement commencing on the Effective Date (the "Fees"). All Fees are NON-REFUNDABLE. Client shall reimburse Guarantee Digital, within thirty (30) days of being billed by Guarantee Digital, for any out-of-pocket costs incurred by Guarantee Digital in rendering the Services (the "Miscellaneous Costs"), including, without limitation: (i) the costs of maintaining the domain name for the Client Website; it being understood that where Guarantee Digital offers the first year of domain name registration website free of charge for certain Service packages, the Client will automatically be charged (and be obligated to reimburse Guarantee Digital) for the costs of renewing and maintaining the domain name registration after the first year; and (ii) if applicable, the costs of providing e-commerce features, customer support services and other solutions (e.g., shopping cart and electronic ordering/purchase processing, dedicated customer support hours and other services).

3.2 **Billing and Contact Information.** Client shall provide Guarantee Digital with current and accurate billing and contact information and shall promptly notify Guarantee Digital of any change in such information. If the billing or contact information provided by Client is incorrect or incomplete or becomes outdated, Guarantee Digital shall have the right to immediately suspend the Services and access to the Client Properties without any liability to Client, until current and correct billing and contact information is provided by Client. If Client does not provide its updated billing and contact information within a reasonable time period after Guarantee Digital makes a request,

Guarantee Digital shall have the right to terminate this Agreement with immediate effect with or without notice to Client, upon which Guarantee Digital will, without any liability to Client, cease all of the Services, permanently deactivate and terminate the Client Properties, and permanently delete the Client account and all Client-Furnished Material from the Guarantee Digital Platform and the Guarantee Digital Systems.

3.3 **Timely Payment.** Client acknowledges and agrees that: (i) timely payment of the Fee for each billing period is essential to the continuation of the Services and the Client Properties; (ii) Client's failure to pay the Fee on time for a given billing period shall entitle Guarantee Digital to immediately suspend the Services and access to the Client Properties without any liability to Client; and (iii) if Client's account is delinquent for thirty (30) days or more, then in addition to its other rights and remedies, Guarantee Digital shall have the right to terminate this Agreement with immediate effect upon notice to Client, upon which Guarantee Digital will, without any liability to Client, cease all of the Services, permanently deactivate and terminate the Client Properties, and permanently delete the Client account and all Client-Furnished Material from the Guarantee Digital Platform and the Guarantee Digital Systems.

3.4 **Taxes.** The Parties agree that Client shall pay the full amount of the Fee, exclusive of any sales, use, excise, value-added or other similar taxes, all of which shall be the responsibility of Client.

4. **Term and Termination.**

4.1 **Term.** The Initial Term of this Agreement shall commence on the Effective Date and end on the one (1) year anniversary of the Effective Date. Thereafter, the term shall automatically renew on a month-to-month basis on each monthly anniversary of the Effective Date. The Initial Term and any monthly renewal thereafter shall be referred to herein as the "Term."

4.2 **Termination by Client.** Following the Initial Term, Client may terminate this Agreement upon for any reason upon thirty (30) days prior written notice to Guarantee Digital.

4.3 **Termination by Guarantee Digital.** Guarantee Digital shall have the right to terminate this Agreement with immediate effect with or without notice to Client as follows: (i) upon a breach of this Agreement by Client (including anyone acting under its authority or on its behalf); (ii) if Client becomes insolvent, files for bankruptcy, or is adjudicated as bankrupt or insolvent, or makes an assignment for the benefit of creditors, or makes an arrangement pursuant to any bankruptcy law, or if a receiver, liquidator, custodian, trustee or the like is appointed for its business; or (iii) if Client winds down, liquidates, or otherwise ceases or discontinues its business for any reason. Notwithstanding the foregoing, following the Initial Term, Guarantee Digital shall have the right to terminate this Agreement with thirty (30) days prior written notice to Client for any reason or no reason.

4.4 **Effect of Termination.** Upon any termination of this Agreement: (i) all unpaid and accrued Fees and Miscellaneous Costs amounts (including interest thereon, if any) owed by Client hereunder shall become immediately due and payable to Guarantee Digital; (ii) all rights and licenses granted by each Party to the other Party under this Agreement shall automatically cease and terminate; (iii) Guarantee Digital will cease all of the Services, permanently deactivate and terminate the Client Properties, and permanently delete the Client account and all Client-Furnished Material from the Guarantee Digital Platform and the Guarantee Digital Systems; (iv) Client shall have no further right or permission to access or use, except for the Client-Furnished Materials: (1) the Client Website, including any templates, designs or look-and-feel contained therein; (2) Guarantee Digital Platform; (3) any of the Guarantee Digital-Furnished Material; (4) any of the Services; and (5) any of the Guarantee Digital Systems; (v) to the extent Client is in possession of any Guarantee Digital-Furnished Material (including any copies thereof), Client shall promptly return the same to Guarantee Digital or, if so requested by Guarantee Digital, promptly destroy the same; (vi) to the extent Client is in possession or control of any confidential information of Guarantee Digital, it shall promptly return the same (including all copies thereof) to Guarantee Digital or, if so requested by Guarantee Digital, promptly destroy the same; and (vii) notwithstanding anything herein to the contrary, all of the provisions of Sections 1, 2.4, 2.9, 2.10, 2.11, 2.12, 2.16, 2.17, 2.18, 2.19, 2.20, 2.21, 3, 4.4, 5, 6, 7, 8, and 9 (including all definitions pertaining thereto) of this Agreement shall specifically survive any termination of this Agreement. Once this Agreement has been terminated, (a) Client will no longer be able to receive support or access to the Guarantee Digital Platform; (b) Guarantee Digital will not be able to assist Client with any site migration tasks; and (c) any use of the Client Website

may require Client to obtain certain license rights from third parties (i.e., WPEngine). It is your responsibility to maintain offline backups of the Client Website at all times.

5. **Indemnification.** Client shall indemnify, defend and hold harmless Guarantee Digital and its corporate affiliates and their respective directors, officers, employees, agents and representatives (collectively “Guarantee Digital Indemnitees”) from and against all third-party claims, demands, actions, suits and proceedings, as well as all associated liabilities, judgments, awards, damages, settlements, penalties, fines, costs and expenses (including, without limitation, attorneys’ fees) (collectively “Third-Party Claims”), which result from or are caused by: (i) use or misuse, storage, or handling of any User Personal Information by Client or anyone acting under its authority or on its behalf; (ii) violation by Client or anyone acting under its authority or on its behalf, of the published Privacy Policy for the Client Website or any applicable law or regulation pertaining to the privacy or security of User Personal Information; (iii) the registration or use of the Client Website Domain Name; (iv) any Client-Furnished Material; (v) use of the Client Properties, or any activity conducted on or via the Client Properties, by Client or anyone acting under its authority or on its behalf; (vi) violation of any applicable law or regulation by Client or anyone acting under its authority or on its behalf; and/or (vii) any breach of this Agreement by Client or anyone acting under its authority or on its behalf.

6. **Disclaimers.** EXCEPT AS EXPRESSLY OTHERWISE STATED HEREIN, ALL OF THE SERVICES, THE GUARANTEE DIGITAL PLATFORM AND THE CLIENT PROPERTIES ARE PROVIDED ON AN “AS IS” BASIS WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, GUARANTEE DIGITAL HEREBY SPECIFICALLY DISCLAIMS, WITH RESPECT TO THE SERVICES, THE GUARANTEE DIGITAL PLATFORM AND THE CLIENT PROPERTIES, ANY AND ALL (I) IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, (II) WARRANTIES OF TITLE AND NON-INFRINGEMENT, (III) WARRANTIES ARISING FROM ANY COURSE OF DEALING, USAGE OR TRADE PRACTICE, AND (IV) WARRANTIES THAT THE SERVICES, THE GUARANTEE DIGITAL PLATFORM AND THE CLIENT PROPERTIES WILL BE UNINTERRUPTED, ERROR-FREE AND SECURE.

7. **Limitations of Liability.**

7.1 **No Consequential Damages.** IN NO EVENT SHALL GUARANTEE DIGITAL BE LIABLE HEREUNDER TO CLIENT FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, LOST REVENUE, LOST PROFITS, LOSS OF BUSINESS OR OPPORTUNITY, OR LOSS OF USE OR DATA, EVEN IF GUARANTEE DIGITAL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE.

7.2 **Maximum Liability.** IN NO EVENT SHALL THE TOTAL AGGREGATE LIABILITY OF GUARANTEE DIGITAL HEREUNDER TO CLIENT, REGARDLESS OF THE FORM OF CLAIM OR ACTION, EXCEED A SUM EQUAL TO THE TOTAL AMOUNT OF FEES ACTUALLY PAID BY CLIENT TO GUARANTEE DIGITAL DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE ARISING OF THE RELEVANT CLAIM OR ACTION.

8. **Disputes.**

8.1 **Governing Law.** This Agreement, including all disputes and controversies between the Parties arising from or connected to this Agreement, shall be governed by and construed in accordance with the laws of the State of Florida, without giving effect to its conflict of laws rules.

8.2 **Dispute Resolution; Binding Arbitration.**

(a) EACH PARTY IS AGREEING TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY, OR TO PARTICIPATE IN A CLASS ACTION OR REPRESENTATIVE ACTION WITH RESPECT TO A CLAIM. OTHER RIGHTS THAT EACH PARTY WOULD HAVE IF SUCH PARTY WENT TO COURT MAY ALSO BE UNAVAILABLE OR MAY BE LIMITED IN ARBITRATION. ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER

PRE-EXISTING, PRESENT, OR FUTURE, AND INCLUDING STATUTORY, CONSUMER PROTECTION, COMMON LAW, INTENTIONAL TORT, INJUNCTIVE, AND EQUITABLE CLAIMS) BETWEEN THE PARTIES ARISING FROM OR RELATING IN ANY WAY TO THIS AGREEMENT, WILL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION.

(b) The arbitration will be administered by the American Arbitration Association (“AAA”) in accordance with the Commercial Arbitration Rules (the “AAA Rules”) then in effect, except as modified by this Section 8.2. The Federal Arbitration Act will govern the interpretation and enforcement of this section. The arbitrator will have exclusive authority to resolve any dispute relating to arbitrability or enforceability of this arbitration provision, including any unconscionability challenge or any other challenge that the arbitration provision or this Agreement are void, voidable, or otherwise invalid. The arbitrator will be empowered to grant whatever relief would be available in court under law or in equity. Any award of the arbitrator(s) will be final and binding on each of the parties and may be entered as a judgment in any court of competent jurisdiction. The parties agree that any required in-person arbitration hearings will occur in or around Los Angeles, California, or as otherwise determined by the arbitrator.

(c) Each party agrees to arbitration on an individual basis. In any dispute, NEITHER PARTY WILL BE ENTITLED TO JOIN OR CONSOLIDATE CLAIMS IN COURT OR IN ARBITRATION OR OTHERWISE PARTICIPATE IN ANY CLAIM AS A CLASS REPRESENTATIVE, CLASS MEMBER, OR IN A PRIVATE ATTORNEY GENERAL CAPACITY. The arbitral tribunal may not consolidate more than one person’s claims, and may not otherwise preside over any form of a representative or class proceeding. The arbitral tribunal has no power to consider the enforceability of this class arbitration waiver and any challenge to the class arbitration waiver may only be raised in a court of competent jurisdiction.

(d) If any provision of this arbitration agreement is found unenforceable, the unenforceable provision will be severed and the remaining arbitration terms will be enforced.

9. **Miscellaneous.**

9.1 **Publicity.** Neither Party shall issue any press release or public announcement about this Agreement or the relationship of the Parties hereunder unless such press release or announcement is issued jointly by the Parties.

9.2 **Marketing Use of Client’s Name.** Client acknowledges and agrees that, during the Term, Guarantee Digital and its corporate affiliates may mention and use Client’s name in sales, marketing, advertising and promotional materials (including, without limitation, sales/marketing pitches and presentations, and client/customer lists) for the purpose of identifying Client as a customer of Guarantee Digital.

9.3 **Relationship of the Parties.** The relationship of the Parties hereunder is that of independent contractors. Nothing in this Agreement shall be deemed or construed to constitute an agency, partnership or joint venture between the Parties.

9.4 **No Assignment.** Client may not assign this Agreement, in whole or in part, without the prior written consent of Guarantee Digital.

9.5 **Notices.** All notices and other communications required or permitted under this Agreement shall be in writing and sent by courier or via e-mail or facsimile.

9.6 **Entire Agreement; Amendments.** This Agreement (including Client’s Order) constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior understandings, communications and agreements, written or oral, between them with respect thereto. These Terms of Service (excluding, for the avoidance of doubt, Client’s Order) may be amended from time to time by Guarantee Digital in Guarantee Digital’s sole and absolute discretion. Changes to these Terms of Service will take effect 7 days after Guarantee Digital has posted an initial notification on Guarantee Digital’s Platform. Client’s Order may not be amended or modified, except by a written instrument executed by both Parties.

9.7 **Severability.** If any provision or any portion of any provision of this Agreement is held to be illegal, invalid or unenforceable, such shall be deemed stricken and deleted from this Agreement to the same extent and effect as if never incorporated herein, but all other provisions of this Agreement and any remaining portion of any provision which is not deemed illegal, invalid or unenforceable shall continue in full force and effect.

9.8 **No Waiver.** No failure or delay by a Party to exercise any remedy in the event of a breach of this Agreement by the other Party will in any way operate as a waiver of such remedy, nor will any single or partial enforcement of any remedy for breach preclude the further enforcement of such remedy or the enforcement of any other remedy.

9.9 **Third Party Rights.** This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or confers upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.