



## Enterprise Master Subscription Agreement

Last Updated: November 1<sup>st</sup>, 2023

This Enterprise Master Subscription Agreement (this “**Agreement**”) is entered into as of the date of execution of an Order Form, as defined below (the “**Effective Date**”), between Netlify, Inc., a Delaware Corporation having its principal place of business at 512 2nd Street, Suite 200, San Francisco, CA 94107 (“**Netlify**”) and the entity executing an Order Form that references this Agreement (“**Customer**”).

Netlify provides cloud-based infrastructure and range of applications and tools that allow developers to build, deploy, host, and manage web projects (collectively, the “**Netlify Services**”). Customer wishes to use, and Netlify wishes to provide, the Netlify Services to Customer, subject to the terms and conditions of this Agreement.

This Agreement is structured as a master agreement, providing the general terms and conditions for each order of products and services from Netlify (“**Order Form**”).



## 1 Definitions

- 1.1 **"Acceptable Use Policy"** means the policy available here: <https://www.netlify.com/legal/acceptable-use-policy>.
- 1.2 **"Affiliate"** means a party that controls, is controlled by or is under common control with a party to this Agreement, where "control" means the power to direct the management or affairs of an entity, for example through the beneficial ownership of more than 50% or more of the voting equity securities or other equivalent voting interests of the entity.
- 1.3 **"Confidential Information"** means information provided to the receiving party (**"Receiving Party"**) that is designated by the disclosing party (**"Disclosing Party"**) as "confidential" or "proprietary" or that a reasonable person would understand to be confidential given the nature of the information and the circumstances of the disclosure. Confidential Information does not include information that: (a) is or becomes generally known to the public through no fault of the Receiving Party; (b) is in the Receiving Party's possession prior to receipt from the Disclosing Party; (c) is acquired by the Receiving Party from a third party without breach of a confidentiality obligation; or (d) is independently developed by Receiving Party without reference to the Disclosing Party's Confidential Information.
- 1.4 **"Customer Content"** means the content provided to Netlify by Customer in using the Netlify Services, as well as any data transmitted and processed through Customer's account on the Netlify Services.
- 1.5 **"Netlify Service Guides"** means the application programming interfaces, software development kits, standards and relevant procedures and policies available in Netlify's website.
- 1.6 **"Service Data"** means any data derived by or on behalf of Netlify based on the use of the Netlify Services under Customer's account.
- 1.7 **"SLA"** means Netlify's service level agreement.
- 1.8 **"Subscription Term"** means the period during which Customer has agreed to subscribe to Netlify Services pursuant an Order Form.
- 1.9 **"Third-Party Software"** means applications, software, or platforms provided by Customer or a third party.

## 2 Access to the Services, Use and Restrictions

- 2.1 **Services.** Subject to Customer's compliance with the terms and conditions of this Agreement and any applicable Order Form (including, without limitation, all payment obligations), Netlify hereby grants Customer the right to access and use the Netlify Services listed in the Order Form during the Subscription Term solely for Customer's internal business purposes, and solely in accordance with the Netlify Service Guides, an Order Form, and this Agreement, including any other restrictions or obligations mutually agreed upon in writing by the parties. Where applicable, the Order Form(s) will include the SLA and the terms and conditions of the support plan to be made available to Customer. Each Order Form will be deemed governed by this Agreement automatically. In the event of any conflict between the terms of this Agreement and any Order, the terms of the applicable Order Form will control.
- 2.2 **Affiliates.** Customer's Affiliates may order products and services under this Agreement pursuant to an Order Form signed by the Affiliate. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto. Any breach of the Agreement by an Affiliate of Customer will be deemed to be a



breach by Customer of the Agreement and Customer will be liable for such breach as if itself had breached the Agreement.

- 2.3 Netlify Service Guides. Customer will integrate with and use the Netlify Services in accordance with the Netlify Service Guides, as updated by Netlify from time to time. Netlify may take reasonable actions to limit the impact of any failure by Customer to comply with the Netlify Service Guides. Netlify will not be responsible for any delay, limitations or Netlify Services performance issues relating to such failure.
- 2.4 Restrictions and Acceptable Use. Except as otherwise agreed by Netlify in a separate written agreement, Customer will not: (a) resell or license the Netlify Services to third parties; (b) interfere with the integrity or performance of the Netlify Services; (c) use the Netlify Services to store or transmit infringing, libelous, defamatory, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (d) use the Netlify Services to store code, files, scripts, agents or programs intended to harm, including but not limited to viruses, worms, malware, Trojan horses. Customer will respond immediately to any reasonable request by Netlify in the event of any actual or anticipated breach of the above. Customer will be solely responsible for all use of the Netlify Services under its account and will promptly notify Netlify if Customer becomes aware of any unauthorized use or other compromise of Customer's account. Customer is responsible for its users' compliance with the Acceptable Use Policy. Netlify may reasonably update the Acceptable Use Policy on at least thirty days' notice to Customer.
- 2.5 Users' Login. Customer shall be responsible for maintaining the confidentiality of all its usernames and passwords created by or assigned to Customer's account ("**Credentials**") and is solely responsible for all activities that occur under such Credentials. If access to and use of the Netlify Services is restricted to the number of individual users permitted in the applicable Order Form, each user's Credentials cannot be shared and used by more than 1 (one) individual. Credentials may be reassigned to new individuals replacing former individuals who no longer require ongoing use of the Netlify Services. Customer is responsible for its users' compliance with this Section and Netlify reserves the right to charge Customer for any overuse in violation thereof. Netlify reserves the right to terminate any Credentials that Netlify reasonably determines may have been used by an unauthorised party and will provide immediate notice of such termination to Customer and promptly replace such Credentials upon request. Upon termination or expiration of the Agreement, all Credentials will be deactivated.
- 2.6 Compliance with laws and policies. Customer is responsible for compliance with the provisions of this Agreement, for any and all activities that occur in connection with its activities hereunder and with its use of the Netlify Services, which Netlify may verify from time to time. Customer will not, and will not permit any other party to, use the Netlify Services to harvest, collect, gather or assemble information or data regarding any third party without a lawful basis for such processing. Customer is solely responsible for obtaining any consents or registrations required in connection with Customer's activities under this Agreement. Without limiting the foregoing, Customer will ensure that its use of the Netlify Services is compliant with all applicable laws and regulations as well as published policies then in effect.

### 3 Beta Services

- 3.1 Services in Beta. From time to time, Netlify may make beta offerings ("**Beta Services**") available to Customer. Beta Services are intended for testing purposes only and Customer may, in its sole discretion, choose to use Beta Services. Netlify may, but is not obligated to, provide support for the Beta Services or correct any bugs, defects, or errors in the Beta



Services. The SLA will not apply to the Beta Services unless specified otherwise in an applicable Order Form. Netlify may discontinue Beta Services at any time (including Customer Content stored as part of the Beta Services), in its sole discretion, or decide not to make Beta Services generally available. Any information regarding Beta Services is Netlify's Confidential Information. Netlify will have no liability for any harm or damage arising out of or in connection with any Beta Services, including any obligation or liability with respect to Customer Content. Customer acknowledges and agrees that any Customer Content entered into Beta Services, and any customizations made to Beta Services by or for Customer may be permanently lost.

#### **4 Confidentiality**

- 4.1 Confidentiality Obligations. Receiving Party will use Confidential Information solely as contemplated by this Agreement and will disclose such information on a need-to-know basis only to its employees, agents, vendors and contractors who are bound by obligations of confidentiality at least as strict as those contained in this Section. Receiving Party will use reasonable care to protect Disclosing Party's Confidential Information and to prevent unauthorized disclosure of Confidential Information. Confidential Information is and will remain the exclusive property of the Disclosing Party. Subject to the terms and conditions of this Agreement, Receiving Party will, upon written request, destroy all copies of the Disclosing Party's Confidential Information that are in its possession or control.
- 4.2 Mandated Disclosures. The foregoing disclosures will not restrict a Party from disclosing Confidential Information of the other Party pursuant to the order or requirement of a court, administrative agency, or other governmental agency; the Party required to make such disclosure provides reasonable notice of such requirement to the other Party to allow the other Party to contest such order or requirement, , unless such Party is prevented from doing so by force of law. In such cases, Receiving Party will provide full cooperation and assistance to Disclosing Party in seeking to obtain such protection, at Disclosing Party's expense.

#### **5 Fees and Payment**

- 5.1 Fees and Payment Terms. Unless otherwise specified in an Order Form, Netlify will invoice Customer annually in advance for the Netlify Services on the Order Form effective date. If the Order Form does not include payment terms, then the amounts ("Fees") due will be payable net 30 (thirty) days from the applicable invoice date. The Fees do not include any local, state, federal, or foreign taxes, levies or duties of any nature (e.g., value-added, sales, use or withholding taxes assessable by any local, state, provincial or foreign jurisdiction). Customer is responsible for paying any such taxes, and Netlify may invoice them, excluding taxes based on Netlify's income. Except as expressly provided in this Agreement or the applicable Order Form, all commitments under this Agreement and/or an Order Form are non-cancellable, non-refundable and cannot be decreased during the Subscription Term.
- 5.2 Late Payment. Netlify will notify Customer in the event Customer fails to pay any invoice in accordance with the terms of this Agreement. If Fees are not paid within 15 (fifteen) days of the late notice, then, until such amounts are paid in full, Netlify will be entitled to: (a) charge interest on any unpaid amount due at the rate of 1% per month, or at the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid; and (b) suspend the Netlify Services. In the event Netlify is required to pursue legal action or collection of any fees payable hereunder, Customer will pay the costs and fees associated with such action or collection.

#### **6 Intellectual Property Rights and Customer Content**



- 6.1 Rights over Netlify Services. Netlify shall own and retain all right, title and interest in and to the Netlify Services and related software, all improvements, enhancements or modifications thereto, and all intellectual property rights associated with the foregoing. Except for the limited access rights expressly granted in this Agreement, Customer obtains no rights to Netlify Services or intellectual property rights by implication, estoppel or otherwise.
- 6.2 Customer Content. As between the parties, Customer owns all intellectual property rights on the Customer Content. Netlify will process the Customer Content only as described in this Agreement and in a Data Processing Agreement (if applicable), and will maintain appropriate administrative, technical and physical security measures to protect Customer Content against unauthorized access, disclosure and loss, as further described here: <https://www.netlify.com/security/>. Customer is solely responsible for creating backup copies of any Customer Content at its sole expense. Notwithstanding any provision in this Agreement to the contrary, Customer agrees that Netlify may use Service Data, including by sharing it with authorized third parties, in connection with the development, maintenance, improvement and provision of any of Netlify Services.
- 6.3 Feedback. Netlify shall have a fully paid-up, worldwide, perpetual, irrevocable, royalty-free license to implement, use, modify, commercially exploit, incorporate into the Netlify Services or otherwise use any suggestions, enhancement requests, recommendations or other feedback regarding the Netlify Services provided by Customer, its users, or third-parties acting on Customer's behalf.
- 6.4 Data Privacy. All personal identifiable information provided by you in connection with the Services shall be subject to the Netlify Privacy Policy available at <https://www.netlify.com/privacy/>. If applicable, Customer's use of the Services may also be subject to the Data Protection Agreement found at <https://www.netlify.com/v3/static/pdf/netlify-dpa.pdf> that shall be incorporated by reference herein into this Agreement.

## 7 Warranties and Disclaimers

- 7.1 Mutual Warranties. Each party represents and warrants that it has validly accepted or entered into this Agreement and has the legal power to do so.
- 7.2 Limited Warranty. Netlify warrants to Customer that during an applicable Subscription Term: (a) this Agreement and the Netlify documentation will accurately describe the applicable administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Content; and (b) the Netlify Services will perform materially in accordance with the Netlify Service Guides and Netlify documentation.
- 7.3 Disclaimers. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ANY PRODUCTS, SERVICES, DELIVERABLES OR DOCUMENTATION PROVIDED TO CUSTOMER IN CONNECTION WITH THIS AGREEMENT ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND, TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW, NETLIFY HEREBY DISCLAIMS ALL WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED, STATUTORY, PAST OR PRESENT, OR FROM A COURSE OF DEALING OR USAGE OF TRADE OR PRACTICE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, TITLE, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE OR INABILITY TO USE THE SERVICE (IN WHOLE OR IN PART). NETLIFY CANNOT AND DOES NOT WARRANT THAT ERRORS CAN OR WILL BE CORRECTED, OR THAT OPERATION OF THE NETLIFY SERVICE WILL BE UNINTERRUPTED, SECURE, OR ERROR-FREE. CUSTOMER ACKNOWLEDGES THAT THE INTERNET AND TELECOMMUNICATIONS PROVIDER'S NETWORKS ARE INHERENTLY INSECURE AND THAT NETLIFY WILL HAVE NO LIABILITY FOR



ANY CHANGES TO, INTERCEPTION OF, OR LOSS OF CUSTOMER CONTENT WHILE IN TRANSIT VIA THE INTERNET OR A TELECOMMUNICATIONS PROVIDER'S NETWORK.

## 8 Indemnification

- 8.1 By Netlify. Netlify will defend, indemnify and hold Customer, its officers, directors, employees and consultants harmless against any third party claim, suit or proceeding alleging that the Netlify Services infringe any copyright, trade secret, trade or service mark or United States patent (each, an “**IP Claim**”). If use of the Netlify Services by Customer has become, or in Netlify's opinion is likely to become, the subject of any such IP Claim, Netlify may, at Netlify's option and expense: (i) procure for Customer the right to continue using the Netlify Services as set forth hereunder; (ii) replace or modify the Netlify Services to make it non-infringing; or (iii) if options (i) or (ii) are not commercially reasonable or practicable as determined by Netlify, terminate the Netlify Services and repay Customer, on a pro-rata basis, any pre-paid Fees to Netlify for the corresponding unused portion of Netlify Services. THIS SUBSECTION SETS FORTH NETLIFY'S SOLE AND EXCLUSIVE OBLIGATIONS AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES WITH RESPECT TO CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.
- 8.2 By Customer. Customer will defend, indemnify and hold Netlify, its Affiliates, officers, directors, agents, employees and consultants harmless from and against any third party claim, suit or proceeding (including court costs and reasonable attorneys' fees) arising from or that are based upon: (a) an allegation that Customer Content infringes any copyright, trade secret, trade or service mark or United States patent; (b) acts or omissions that would constitute a breach by Customer of Section 2.4 (Restrictions and Acceptable Use) or Section 2.6 (Compliance with laws and policies).
- 8.3 Conditions. As a condition of the obligations set forth in this Section, a party entitled to indemnification under this Agreement (the “**Indemnified Party**”) will: (a) provide prompt written notice of the applicable claim to the other party (the “**Indemnifying Party**”); (b) provide the Indemnifying Party with sole control of the applicable defense and settlement; and (c) cooperate as requested by the Indemnifying Party, at the Indemnifying Party's expense. The Indemnifying Party will not agree to any settlement unless such settlement includes a full release of the claim against the Indemnified Party.
- 8.4 Exclusion of Indemnification. Netlify will have no liability or obligation under Section 8.1 with respect to any IP Claim if such claim is caused in whole or in part by: (a) compliance with designs, data, instructions or specifications provided by Customer; (b) modification of the Netlify Services by anyone other than Netlify and its employees; or (c) the combination, operation or use of the Netlify Services with other hardware or software where the Netlify Services would not by itself be infringing.

## 9 Limitation of Liability

- 9.1 TO THE EXTENT LEGALLY PERMITTED UNDER THE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, EXEMPLARY, PUNITIVE, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, DAMAGES OR COSTS DUE TO LOSS OF PROFITS, DATA, USE, REVENUE OR GOODWILL, BUSINESS INTERRUPTION, PROCUREMENT OF SUBSTITUTE SERVICES, AND/OR WASTED EXPENDITURES, RESULTING FROM OR IN CONNECTION WITH THE AGREEMENT OR CUSTOMER'S USE, OR INABILITY TO USE, THE NETLIFY SERVICES OR OTHER PRODUCTS OR SERVICES HEREUNDER, REGARDLESS OF THE CAUSE OF ACTION, WHETHER IN TORT (INCLUDING NEGLIGENCE), CONTRACT, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN NOTIFIED OF THE LIKELIHOOD OF SUCH





DAMAGES. THE FOREGOING EXCLUSION WILL NOT APPLY TO ANY AMOUNTS PAYABLE TO A THIRD PARTY UNDER SECTION 8 (INDEMNIFICATION).

9.2 THE MAXIMUM LIABILITY OF NETLIFY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT WILL NOT EXCEED AN AMOUNT EQUAL TO THE FEES PAID BY CUSTOMER TO NETLIFY DURING THE TWELVE MONTHS PRECEDING THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. THE LIMITATION OF LIABILITY PROVIDED FOR HEREIN WILL APPLY IN AGGREGATE TO ANY AND ALL CLAIMS BY CUSTOMER AND ITS AFFILIATES AND SHALL NOT BE CUMULATIVE. THE EXISTENCE OF ONE OR MORE CLAIMS UNDER THE AGREEMENT WILL NOT INCREASE NETLIFY'S LIABILITY. THE FOREGOING LIMITATION WILL NOT APPLY TO ANY AMOUNTS PAYABLE TO A THIRD PARTY UNDER SECTION 8 (INDEMNIFICATION).

9.3 THE PARTIES ACKNOWLEDGE THAT THE PRICES HAVE BEEN SET AND THE AGREEMENT ENTERED INTO IN RELIANCE ON THESE LIMITATIONS OF LIABILITY AND THAT ALL SUCH LIMITATIONS FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES.

## 10 Term, Termination and Suspension

10.1 Term and Renewals. This Agreement will enter into effect on the Effective Date and continue until all Order Forms have expired or been terminated. Each Order Form will commence on the effective date of such Order Form and will extend for the Subscription Term. Upon expiration of the Subscription Term, the Order Form will automatically renew for subsequent Subscription Terms equivalent in length to the then-expiring Subscription Term, unless either party gives the other party written notice of its intent not to renew at least 60 (sixty) days prior to the end of the then-current term. Customer acknowledges and agrees that if an Affiliate of Customer executes an Order Form pursuant to this Agreement (each, an "**Affiliate Order**"), such Affiliate Order will extend the then-current term of this Agreement with respect to such Affiliate, as well as the Customer.

10.2 Termination. Either party may at any time terminate this Agreement and/or an Order Form for cause upon written notice to the other party, if: (a) the other party has materially breached any provision of this Agreement and/or an Order Form, and fails to cure such breach within 30 (thirty) days from the date of the breaching party's receipt of such written notice; (b) the other party becomes the subject of a petition in bankruptcy or any other proceedings related to liquidation, insolvency or assignment for the benefit of creditors; or (c) the other party generally becomes unable or fails to pay its debts as they come due. Netlify may immediately terminate this Agreement for cause and without advance notice if Customer violates Netlify's Acceptable Use Policy.

10.3 Suspension. Notwithstanding any provision in this Agreement to the contrary, in the event of any activity by Customer or any of its users that has (or in Netlify's reasonable assessment is likely to have) an adverse effect on the operation of the Netlify Services, Netlify may temporarily suspend access to the Netlify Services. This right includes removal or disablement of Customer Content or other content in accordance with Netlify's DMCA Takedown Policy, available here: <https://www.netlify.com/dmca/>, or in relation to violations of the Acceptable Use Policy. In such event, Netlify will notify Customer as soon as possible and will work with Customer in good faith to remedy the cause of the adverse effect.

10.4 Effect of Termination. The provisions of this Section and the following Sections will survive any termination of this Agreement: Section 2.4 (Restrictions and Acceptable Use); Section 2.6 (Compliance with laws and policies), Section 4 (Confidentiality), Section 5 (Fees and Payment), Section 7 (Warranties and Disclaimers), Section 8 (Indemnification), Section 9 (Limitation of Liability) and Section 16 (General).



## 11 Export and Anti-Bribery Compliance

11.1 Export Compliance. The Netlify Services and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Netlify and Customer each represents that it is not on any U.S. government denied-party list. Customer will not permit any user to access or use any Netlify Services in a U.S.-embargoed country or region or in violation of any U.S. export law or regulation.

11.2 Ethical Conduct, Anti-Corruption. Neither Party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of its employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

## 12 Open Source and Third-Party Software

12.1 Use of Open Source. Some software available through the Netlify Services may contain open source software and to the extent required by the licenses covering open source software, the terms of such licenses will apply to the open-source software in lieu of this Agreement.

12.2 Third-Party Software. The Netlify Services may contain features designed to interoperate with Third-Party Software. Your use of a Third-Party Software is subject to a separate agreement between you and the relevant third party. Netlify does not warrant or support Third-Party Software and cannot guarantee its continued security, availability or performance.

## 13 Publicity

13.1 Usage of logo and marketing materials. Subject to Customer's trademark usage guidelines, Customer grants Netlify a non-exclusive, worldwide, royalty free right to include Customer's name and logo in any customer listing appearing on or in any Netlify website, brochure, presentation, annual report and any other marketing materials. Customer may terminate the foregoing license at any time following the termination of this Agreement, or by providing Netlify thirty (30) days' written notice, upon which Netlify will promptly remove Customer's name and logo from its website and cease from creating any new marketing material containing the same. Notwithstanding the foregoing, Netlify's right to continue to use any pre-printed marketing materials produced prior to such termination will continue until the supply of such materials is exhausted.

## 14 Notices

14.1 How to send notices. Any legal notices sent by Customer to Netlify relating to this Agreement must be delivered in English and in writing by: (a) courier or U.S. mail to PO Box, PMB 87587, San Francisco, CA 94120-7775, Attn: Netlify Legal dept; and (b) electronic mail to [legal@netlify.com](mailto:legal@netlify.com). All other notices provided by Customer to Netlify under this Agreement must be delivered in English and in writing by electronic mail to [support@netlify.com](mailto:support@netlify.com). Any notices sent by Netlify to Customer relating to this Agreement may be sent in writing (a) to the Customer's address set forth in the preamble to this Agreement or such other address previously provided by written notice; or (b) via electronic email to the primary email address in the applicable Netlify account.

## 15 Dispute Resolution

15.1 Governing Law and Venue. This Agreement and any action related thereto will be governed and interpreted by and under the laws of the State of California, without regard to conflicts of laws principles. Any disputes under this Agreement shall be resolved in a court of general





jurisdiction in San Francisco County, California. You hereby expressly agree to submit to the exclusive personal jurisdiction of this jurisdiction for the purpose of resolving any dispute relating to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

## 16 General

- 16.1 Assignment. Neither party may assign this Agreement in whole or in part without the other party's prior consent, which shall not be unreasonably withheld; provided that either party may assign this Agreement to a successor in interest in the event of a sale or merger of the applicable entity, with written notification to the non-assigning party. Subject to the terms of this Section, this Agreement will be binding upon the parties hereto and any authorized assigns.
- 16.2 Equitable Relief. Each party acknowledges that any violation of any of the protections of the other party's intellectual property rights or misuse of Confidential Information would cause irreparable harm to such party for which it could not be adequately compensated by money damages. Accordingly, each party agrees that, in addition to all other remedies available to other party in an action at law, in the event of any actual or threatened violation of Intellectual Property Rights or misuse of Confidential Information, the other party will be entitled to temporary and permanent injunctive relief, including, but not limited to, specific performance of the terms of this Agreement.
- 16.3 Force Majeure. Any delay in the performance of any duties or obligations of either party (except the payment of money owed) will not be considered a breach of this Agreement if the delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood or other acts of God, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the cause of the delay and to resume performance as soon as possible.
- 16.4 Entire Agreement. This Agreement constitutes the entire understanding of the parties with respect to its subject matter. It replaces and supersedes all prior or contemporaneous written and oral agreements with respect to its subject matter, including the terms of any previously agreed-to non-disclosure agreement. Any other terms and/or pre-printed terms on or attached to any purchase order, invoice, quote or acknowledgement Customer provides will be void and of no effect unless signed by an authorized representative of Netlify.
- 16.5 Independent Contractors. The relationship of the parties is that of independent contractors, neither party is an agent or partner of the other. Neither party will have, and will not represent to any party that it has, any authority to act on behalf of or bind the other party.
- 16.6 Severability. If any provision of this Agreement is held to be unenforceable, such provision will be reformed to the extent necessary to make it enforceable, and such holding will not impair the enforceability of the remaining provisions.
- 16.7 No Waiver. The failure or delay of a party at any time to require performance of any term or condition of this Agreement will not affect such party's right to enforce such term or condition, or any other provision of this Agreement, at a later time. Each waiver will only be effective if in writing and signed by both parties.
- 16.8 Contract Revisions. Netlify may make modifications to this Agreement by providing 30 (thirty) days prior notice. Such notice shall be either: (a) written; (b) email to the address associated with Customer account; or (c) via the Netlify Services. The modifications to this Agreement will be considered agreed to by the Customer and shall apply 30 (thirty) days after Netlify sends the notice.