



Terms of Service Agreement

This liquidWMS Terms of Service Agreement (the “**Agreement**”) is between you (the “**Client**”) and liquidWMS, LLC (“**liquidWMS**”) for using liquidWMS and any additional modules related to liquidWMS (the “**System**”). If you are signing on behalf of a Company than “you” means the company and you are binding your company to this Agreement.

By using the System, the Client accepts this Terms of Service Agreement, including any future customization or additional modules in the System.

Intellectual Property: The client agrees that liquidWMS maintains all present and future rights to intellectual property including inventions and improvements, trademarks (whether registered or common law trademarks), patents, designs, copyright, and any corresponding property rights under the laws of any jurisdiction.

Privacy: This Agreement includes the liquidWMS privacy policy (the “Privacy Policy”), located at www.liquidwms.com/privacy which sets forth liquidWMS’s practices regarding the collection and use of information that is collected from clients through use of the liquidWMS website and System.

3rd Party Software: liquidWMS is not responsible for any 3rd-party software used by the System, including but not limited to, performance, uptime, upgrades, changes in functionality, or changes in system behavior to do 3rd-party software updates. liquidWMS will not share data, user information, inventory, or Client account information with any 3rd party providers without written consent from the Client.

Data Manipulation and Integrity: The Client is responsible for data entry, manipulation, and data integrity of inventory, including any other data, using the System. The Client is responsible to ensure users are trained and properly using the system as intended by liquidWMS.

System Usage and Limitations: To ensure a stable and reliable environment, and to meet performance expectations of all clients, liquidWMS has the right to limit server usage and server bandwidth for the Client at any time. If a Warehouse Profile (“**Warehouse Profile**”) is defined in the Statement of Work (the “**Statement of Work**”), the Client is expected to stay within reasonable limits of this Warehouse Profile. If actual usage exceeds any of the Warehouse Profile limits, this would be considered excessive use of the System. Excessive usage of the System may result in server bandwidth limitations, increases of licensing fees, and may be deemed as a breach of contract by the Client. The Client shall not use the System for another Warehouse other than the Warehouse(s) defined in the Warehouse Profile. If a Warehouse Profile changes, the Client is to notify liquidWMS in a timely manner to adjust the Statement of Work to reflect actual profile.

User Access and Passwords: Client user passwords and access will be managed by the Client. The Client is responsible for ensuring users have unique passwords and acknowledges any actions taken in the system using a username and password is sole responsibility of the Client. In case of known unauthorized use or access to the system, the Client will notify liquidWMS of the security breach as soon as possible. At no time will liquidWMS give out usernames or passwords, or reset passwords for Client account users without written consent from the Client.

Limitation of Liability: In no event shall liquidWMS or any employees of liquidWMS be liable for any loss of use, lost or inaccurate data, failure of security mechanisms, interruption of business, costs of delay or any indirect, special, incidental, reliance or consequential damages of any kind (including lost profits), regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise, even if it has been advised of the possibility of such damages. In no event will liquidWMS be held liable, either directly or indirectly, for more than the value of the annual license fees paid by the Client for the current contract.

Force Majeure: liquidWMS shall not be liable for any failure to perform its obligations under this Agreement because of circumstances beyond the reasonable control of liquidWMS. Such circumstances shall include (without limitation): natural disaster, terrorism, riot, sabotage, war, any acts or omissions of any government or governmental authority, transportation delays, power failure, computer failure, telecommunications failure, internet failure, or acts of God.

System issues/Defects: Like any software, liquidWMS may have system issues or defects/malfunctions that negatively impact performance and data integrity; liquidWMS does not warrant that the use of the System be secure, timely, uninterrupted or error-free. liquidWMS makes no warranties, either expressed or implied, about the System: the System is provided "As Is". liquidWMS will strive to ensure all issues can be resolved in a reasonable timeframe with reasonable amount of effort. liquidWMS is not responsible for downtime or loss of data integrity due to system issues. It is the Client's responsibility to report any and all system issues to liquidWMS support as soon as issues are identified. In the case where liquidWMS cannot fix an issue, the client will be notified of defect status and any workarounds that may exist in the system to bypass the defect going forward. Should the System be entirely unavailable for more than three (3) days from the time the Client reports a system outage, the Client reserves the right to terminate this Agreement early without penalty. All licences fees will be refunded on a Pro-rata basis for any unused services.

Maintenance Windows: liquidWMS reserves the right to modify, upgrade, or repair the System at any time to ensure the System is stable and working for all clients. Scheduled maintenance windows are to be scheduled on weekends from 7PM Friday to 8AM Monday Eastern every week, although releases will likely only take place twice a month. All scheduled maintenance will be communicated to the Client at least two (2) business days before maintenance begins. liquidWMS will use commercially reasonable efforts to ensure downtime is as minimal as possible for the Client. In the case of emergency maintenance, liquidWMS will use commercially reasonable efforts to notify the Client of any downtime. Upon major releases or emergency maintenance that specifically affects the Client, the Client may be asked to perform testing or validation on particular functions in the System. The Client is expected to complete testing or validation within a reasonable timeframe to ensure the System is working as expected.

Termination / Cancellation: The Client agrees to the term length of the contract and intends to use and pay for the System for the life of the contract. Early termination of a contract must be submitted by the Client to liquidWMS by written or email notifications to support@liquidwms.com at least 60 days in advance of contract termination date, unless otherwise superseded by the Statement of Work. Contract termination fees, if specified in the Statement of Work, may be applied to any applicable refund. liquidWMS holds the right to deny the System or any services to the Client for non-payment on licenses or services exceeding 90 days from payment due date. Denial of the System for lack of non-payment does not count as system downtime. Retrieval of data by the Client for any unexpected termination or non-payment denial may be subject to a \$500 penalty, not including time and effort for providing historical data. Any breach of contract from either side will result in a termination of this Agreement.

Transfer of Contract: The Client may not resell, distribute liquidWMS services or software without written consent from liquidWMS. Contracts made with liquidWMS and the Client cannot be transferred to any other entities without written consent from liquidWMS. Any unauthorized transfer of access or use of system to any entities outside of the contracted Client in this Agreement would qualify as a termination of service on the initial contract and would be subject to applicable termination fees.

Changes to this Agreement: Changes to this Agreement may be made by liquidWMS at any time. If any changes are made to these terms during the License term, the new Agreement will go into effect at the time of license renewal. The current term is subject only to the Agreement version made at time of contract start or renewal.