

NetMass, Inc. ("DISTRIBUTOR") agrees to provide the Customer ("You") the LiveVault® Online Backup Service (the "LiveVault Service") for Your initial server (the "Protected Server") and any subsequent servers you may choose to provision ("New Protected Servers"), as described in the 30-Day Service Level Agreement at the LiveVault Service web site <http://www.mylivevault.com>, according to the Plan Option you have selected below, in accordance with the following Terms and Conditions.

This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument. This Agreement may be executed and delivered by telecopier or other facsimile transmission all with the same force and effect as if the same was a fully executed and delivered original manual counterpart. All pages must be initialed and must accompany the signatures.

IN WITNESS WHEREOF, NetMass and Customer have caused this instrument to be executed by their duly authorized employees, as of the ____ day of _____, ____ (effective date of this contract).

Customer Information

Agree to by Customer (Company Name): _____

Firstname: _____ Lastname: _____

Address 1: _____ Phone: _____

Address 2: _____ Email: _____

Billing Information

Credit Card Number: _____

Type of Credit Card : _____ Expiration Date (MM/YY) : _____

Name on Card: _____

Billing Address 1: _____

Billing Address 2: _____

City: _____ State: _____ ZIP: _____

Authorized Signature

Signature: _____ Date: _____

Print Name: _____

Title: _____

NetMass Incorporated

112 E. Louisiana, Suite C
McKinney, Texas 75069
(800) 731-2737 office
(928) 222-3350 fax

For DISTRIBUTOR User Only: C.N.A. _____ C.A. # _____
--

Service Fees

DISTRIBUTOR agrees to provide the LiveVault Service to You for each Protected Server at the prices stated below:

Basic Service Plans (per Protected Server)

Server Plan	Plan Fee (billed in advance)	Select One Plan Option Below
Online Data Protection for Small Servers- Monthly billing	\$295 per server (1)	#0010 _____
Online Data Protection for Small Servers- Annual billing	\$2,950 per server (1)	#1010 _____
Online Data Protection for Medium Servers- Monthly billing	\$695 per server (2)	#0025 _____
Online Data Protection for Medium Servers- Annual billing	\$6,950 per server (2)	#1025 _____
Online Data Protection for Large Servers- Monthly billing	\$1,250 per server (3)	#0050 _____
Online Data Protection for Large Servers- Annual billing	\$12,500 per server (3)	#1050 _____

(1) Protected data over 10 GB is billed at \$50 per GB, at the end of each month; (2) Protected data over 25 GB is billed at \$40 per GB, at the end of each month. (3) Protected data over 50 GB is billed at \$30 per GB, at the end of each month. Charges for all Plan Options are based upon the peak amount of server data under protection at any time during the monthly billing cycle, rounded up to the nearest full gigabyte. An Activation Fee of \$150 per server applies. If you wish to select an alternative Plan Option for any individual server(s), please submit a Server Plan Option Selection Form to DISTRIBUTOR via fax prior to provisioning your server(s).

Supplemental Service Options

Options	Option Fee (billed in arrears)
Internet Restores	Free
Media-based restores delivered on CD-ROMS	\$25 per GB or portion thereof plus shipping
Media-based restores delivered on NAS device	\$25 per GB or portion thereof (\$400 minimum charge) plus shipping (includes two week rental for use of NAS device)
Transfer charge (Move the LiveVault Service to a different server)	\$225

Terms and Conditions

1. Term of Agreement

You subscribe for 12 months (the "Initial Term") of Basic Service for each server you enroll. The Initial Term commences on the earliest of the date you install the LiveVault Agent on your Protected Server or 30 days after the date of this Agreement. Your service will automatically be renewed for an additional 12 month period unless a Termination Notice is sent to LiveVaultServices@livevault.com 30 days prior to the end of the 12 month period. This Termination Notice should include: company name, contact name, server name, telephone #, address and requested termination date.

2. Service Fees

All charges for the LiveVault Service under this Agreement shall be as specified above. The Basic Service Plan shall remain fixed for the Initial Term of the Agreement. Service renewals will be priced out using the Plan and fees in effect at the date of the service renewal, provided that You were provided with sixty (60) days' advance notice of any revised fee structure.

Charges for Supplemental Service Options and any third-party service fees may be changed by DISTRIBUTOR at any time upon sixty (60) days' written notice, unless otherwise provided herein. Service for New Protected Servers will be priced in accordance with the Service Plan selected at the start of the Initial Term of the New Protected Server.

3. Payments

Payment terms are net twenty (20) days from invoice date. Any amount not paid when due will bear late charges at the rate of one and one-quarter percent (1.25%) per month compounded on a daily basis from the date due until the date paid. You shall be liable for all expenses incurred in collecting

charges that are in arrears, including reasonable attorneys' fees. If You fail to pay the charges of DISTRIBUTOR for a period of forty-five (45) days after the date of the invoice, DISTRIBUTOR may, after giving ten (10) business days notice, at its option (a) cease providing the LiveVault Service and/or (b) refuse access to data stored by You with DISTRIBUTOR. If You are consistently delinquent (defined as being late in the payment of any three (3) or more invoices in a 12-month period) and/or upon the expiration or termination of this Agreement, DISTRIBUTOR may require payment by certified check prior to furnishing You with access to the data received and stored by DISTRIBUTOR. If You are in arrears for a period of three (3) months or longer, DISTRIBUTOR may destroy the data transmitted to it by You ten (10) business days after giving written notice to the most recent billing contact in DISTRIBUTOR's records. IN THE EVENT DISTRIBUTOR TAKES ANY ACTION PURSUANT TO THIS SECTION, IT SHALL HAVE NO LIABILITY TO YOU OR ANYONE CLAIMING BY OR THROUGH YOU. Nothing herein shall preclude DISTRIBUTOR from pursuing other remedies authorized by statute or otherwise.

4. Cancellation Rights and Charges

You may cancel the LiveVault Service for your initial Protected Server within the first 30 days of the commencement of the Initial Term without incurring any Basic Service Fees, Activation Fees or Cancellation Charges. After these first 30 days, Cancellation Charges will equal 50% of the monthly plan fee for the selected option times the number of full or partial months remaining in the 12 month term for each server. The Cancellation Notice should be sent to LiveVaultServices@livevault.com and should include company name, contact name, server name, telephone #, address and requested cancellation date. Cancellation Charges will be due and payable upon receipt of invoice.

5. LIMITED WARRANTY

DISTRIBUTOR warrants that, once the Initial Backup has successfully completed, the LiveVault Service provided by DISTRIBUTOR will conform to the specifications set forth in the 30-day Service Level Agreement. EXCEPT FOR THIS WARRANTY, DISTRIBUTOR AND ITS LICENSORS DISCLAIM ANY AND ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT WITH RESPECT TO THE LIVEVAULT SERVICE.

This limited warranty gives You specific legal rights, and You may also have other rights, which vary from jurisdiction to jurisdiction. If You believe that the LiveVault Service does not conform to the warranty described above, contact Customer Service. DISTRIBUTOR's exclusive liability and Your sole remedy for breach of this limited warranty shall be either reperformance of the specific service component which failed free of charge or, at Your sole discretion, refund of any fees paid by You for the period in which the specific service component failed to conform to this limited warranty. Some jurisdictions do not allow the exclusion or limitation of relief, incidental or consequential damages, so the above limitation or exclusion may not apply to You.

6. LIMITATION OF LIABILITY

DISTRIBUTOR'S AND ITS LICENSOR'S CUMULATIVE LIABILITY TO YOU AND ALL OTHER PARTIES FOR ANY LOSS OR DAMAGES RESULTING FROM ANY CLAIMS, DEMANDS, OR ACTIONS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE USE OF THE LIVEVAULT SERVICE OR ANY FAILURE OR DELAY IN DELIVERING THE LIVEVAULT SERVICE SHALL NOT EXCEED THE TOTAL FEES PAID BY YOU DURING THE PERIOD OF THREE (3) MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE EVENT GIVING RISE TO THE CLAIM OCCURRED. DISTRIBUTOR AND ITS LICENSORS SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR OTHER INDIRECT DAMAGES, OR FOR LOST PROFITS OR LOST DATA ARISING OUT OF THE USE OR INABILITY TO USE THE LIVEVAULT SERVICE OR ANY DATA SUPPLIED THEREWITH OR ANY FAILURE OR DELAY IN DELIVERING THE LIVEVAULT SERVICE, EVEN IF DISTRIBUTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

Some jurisdictions do not allow the exclusion or limitation of special, incidental, consequential, indirect or exemplary damages, or the limitation of liability to specified amounts, so the above limitation or exclusion may not apply to You.

7. Other

7.1 Acts Beyond DISTRIBUTOR's Control

DISTRIBUTOR shall not be deemed to be in breach of this Agreement if its obligations are delayed or prevented by any reason of any act of God, war, fire, natural disaster, accident, riots, acts of government, shortage of materials or supplies, failure of any transportation or communication system, non-performance of any of Your agents or Your third party providers (including, without limitation, the failure or performance of common carriers, interchange carriers, local exchange carriers, internet service providers, suppliers, subcontractors) or any other cause beyond its reasonable control.

7.2 Notice of Claim and Filing of Suit

You must present any claim in writing to DISTRIBUTOR within a reasonable time, and in no event longer than sixty (60) days after the event for which the claim is presented. No action may be maintained against DISTRIBUTOR for loss, damage or destruction of data transmitted, unless timely written claim has been given as provided above, and unless such action is commenced within nine (9) months after the date on which such written claim delivered in accordance with the foregoing, has been received by DISTRIBUTOR.

7.3 Ownership Warranty

You warrant that You are the owner or legal custodian of the data transmitted to DISTRIBUTOR pursuant to the terms of this Agreement and that You have full authority to transmit said data and direct its disposition in accordance with the terms of this Agreement.

7.4 Confidentiality

"Confidential Information" means any information (without regard to the medium on which such information may be recorded, whether written, visual, audio, graphic, computerized or otherwise) concerning or relating to Your property, business and affairs and specifically includes data transmitted from any Protected Server to LiveVault Servers. Confidential Information shall be held in confidence by DISTRIBUTOR and shall be used only for the purposes provided for in this Agreement. DISTRIBUTOR shall use the same degree of care to safeguard Your Confidential Information as it utilizes to safeguard its own Confidential Information. DISTRIBUTOR may comply with any subpoena or similar order related to data on the server located within a DISTRIBUTOR authorized facility, provided that DISTRIBUTOR notifies You promptly upon receipt thereof, unless such notice is prohibited by law. You shall pay DISTRIBUTOR's reasonable charges for such compliance.

7.5 Indemnification

You agree to fully indemnify and hold harmless DISTRIBUTOR and its employees and agents for any liability, cost or expense (including litigation expenses and reasonable attorneys' fees) arising out of (i) DISTRIBUTOR's possession of Your data, or (ii) Your breach of the terms and conditions of this Agreement.

7.6 Modification; Authority; Assignment

Any aspect of this Agreement or the corresponding Service Level Agreement may be modified by DISTRIBUTOR upon 30 days prior notice. Should You wish to terminate the LiveVault Service for any one or all of Your Protected Servers as a result of such modification, you may do so by sending a Termination Notice to LiveVaultServices@livevault.com any time prior to the effective date of such modification; no Cancellation Charges will apply. Otherwise such modification will remain in effect for the remaining term of your Protected Server(s). DISTRIBUTOR reserves the right to modify Service Fees or Terms and Conditions or the corresponding Service Level Agreement for any New Protected Servers at any time prior to the start of their Initial Term. You acknowledge that you have the authority to enter in to this Agreement on behalf of your company and that you may authorize other individuals to purchase additional services. This Agreement binds any of Your authorized users, as well as your heirs, executors, successors, and assigns and cannot be changed orally. As a condition precedent to Your installation of the LiveVault Agent, You must elect to accept the Software License Agreement and Service Level Agreement. In

the event You elect not to accept such agreements, this Agreement shall automatically terminate without further action or notice and without liability to any party. CUSTOMER IS ADVISED TO CAREFULLY REVIEW THE SERVICE LEVEL AGREEMENT FOR IMPORTANT INFORMATION REGARDING SERVICE REQUIREMENTS, USAGE RESTRICTIONS AND SUPPORT FUNCTIONS RELATING TO THE SERVICE. You shall also be responsible for complying with, and/or acknowledging, any "terms of use" and "privacy policy" posted on the Service's web site. This Agreement may not be assigned by You (other than to an affiliate which shall assume the obligations of its assignor by written instrument) without the written consent of DISTRIBUTOR, which shall not be unreasonably withheld or delayed. This Agreement may be terminated and/or assigned by DISTRIBUTOR to any authorized provider of the LiveVault Service by giving 30 day notice to You.

7.7 Governing Law; Jurisdiction

This Agreement is governed by the laws of the Commonwealth of Massachusetts, excluding its conflicts of laws principles. You hereby submit to the exclusive jurisdiction of the federal and state courts of the Commonwealth of Massachusetts; provided, however, that DISTRIBUTOR shall have the right to institute judicial proceedings against You or anyone acting by, through or under You, in other jurisdictions in order to enforce DISTRIBUTOR's rights hereunder through reformation of contract, specific performance, injunction or similar equitable relief. Each party hereby irrevocably waives any and all rights to a jury trial and any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding relating to this Agreement in Boston, Massachusetts and further irrevocably waives any claim that Boston, Massachusetts is not a convenient forum for any such suit, action or proceeding.

7.8 General

This Agreement and any supplemental agreements with respect to the LiveVault Service constitute the entire understanding between DISTRIBUTOR and You with respect to subject matter hereof. Terms and conditions as set forth in any purchase order which differ from, conflict with, or are not included in this Agreement, shall not become part of this Agreement unless specifically accepted by DISTRIBUTOR in writing. You shall be responsible for and shall pay, and shall reimburse DISTRIBUTOR on request if DISTRIBUTOR is required to pay, any sales, use, value-added or other tax (excluding any tax that is based on DISTRIBUTOR's net income), assessment, duty, tariff, or other fee or charge of any kind or nature that is levied or imposed by any governmental authority on the LiveVault Service.