

SOFTWARE LICENSE AND SUBSCRIPTION AGREEMENT - Oct. 22nd, 2015

This **SOFTWARE LICENSE AND SUBSCRIPTION AGREEMENT** is effective as of the day of the date you click the designated button to agree to these terms ("**Effective Date**") between Brew Love Software, LLC. ("**Brew Love**" "**us**" or "**we**"), a Limited Liability Company organized under the laws of the State of Colorado and having its principal place of business at 1825 Florida Rd, Durango, CO., and the company on whose behalf you are clicking to accept this Agreement.

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

"**Affiliate**" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"**Customer Data**" means all electronic data or information submitted by Customer to the Service.

"**Documentation**" means the online description of the Service, and other written specifications or guides provided by Brew Love to Customer.

"**Fees**" means the amounts payable by Customer for its subscription to the Service, in accordance with the subscription level requested by the Customer and the then-current amounts listed on the Brew Love website.

"**Malicious Code**" means viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs.

"**Service**" means the online, Web-based application provided by Brew Love at <http://brewlovesoftware.com> and/or other designated websites, including those features to which the Customer has subscribed.

"**Trial Period**" means the portion of the Term commencing upon Customer's registration to use the Service and ending upon Customer's upgrade to a paid subscription to the Service.

"**Users**" means individuals who are authorized by Customer to use the Service, for whom subscriptions to the Service have been purchased, and who have been supplied user identifications and passwords by Customer. Users may include but are not limited to employees, consultants, contractors and agents of Customer or its Affiliates.

2. License & Service.

2.1 License. Subject to the terms and conditions of this Agreement (including without limitation Customer's obligation to pay the Fees), Brew Love grants Customer a non-exclusive,

fully-paid, royalty-free, non-transferable, temporary (for the Term), and revocable right and license, without the right to sublicense, to use the Service in connection with Customer's business. The Fees do not include sales, use, value added or other taxes.

2.2 Provision of Service. Subject to the terms and conditions of this Agreement, Brew Love shall make the Service available to Customer and its Users pursuant to this Agreement during the Term (as defined herein.) Customer shall have access to only those features of the Service available at the Customer's subscription level, as identified on the Customer's account page on the Brew Love website. Brew Love reserves the right to disable access to or use of the Service by Customer and its Users if Customer does not upgrade to a paid subscription to the Service within 14 days from the start of the Trial Period.

2.3 Additional Users and Features. User subscriptions are for up to nine (9) designated Users and may not be shared or used by more than one User, but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Service. Brew Love may make certain features of the Service available only if Customer purchases a subscription which includes those features. If Customer requires more than nine (9) Users, additional User licenses must be purchased. Unless otherwise specified in this Agreement, (i) the term of any additional User or feature subscriptions shall be coterminous with the expiration of the subscription term in effect at the time the additional Users or features are added; and (ii) pricing for additional User or feature subscriptions shall be charged at the then-effective pricing, as listed on the Brew Love website or in a written quote provided by Brew Love. Fees for each additional User or feature will be charged following the bill sent following the addition of the User(s) or feature.

2.4 Third Party Licenses. The Brew Love service may incorporate software, services or otherwise make use of third party intellectual property. For example, the Brew Love derived from CodeIgniter Software, the license for which is located at <https://ellislab.com/codeigniter/user-guide/license.html>, and incorporated by this reference herein. Customer's use of the Service is governed by the terms and conditions of any license to third-party services, which shall prevail in the event of any inconsistency with the terms of this Agreement. No purchase

of such third-party products or services is required to use the Service.

3. Use of the Service.

3.1 Brew Love Responsibilities. Brew Love shall: (i) in addition to its confidentiality obligations hereunder, not use, modify or disclose the Customer Data to anyone other than Users; (ii) maintain the security and integrity of the Service and the Customer Data; (iii) provide support, as described by this Agreement.

3.2 Customer Responsibilities. Customer is responsible for all activities that occur in User accounts and for Users' compliance with this Agreement. Customer shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (ii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service, and notify Brew Love promptly of any such unauthorized access or use; and (iii) comply with all applicable local, state, federal and foreign laws in using the Service.

3.3 Use Guidelines. Customer shall use the Service solely for its internal business purposes as contemplated by this Agreement and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Service available to any third party, other than to Users or as otherwise contemplated by this Agreement; (ii) modify, adapt, alter, translate, or create derivative works from the Service; (iii) merge the Service with other software; (iv) sublicense, distribute, sell, use for service bureau use, lease, rent, loan, or otherwise transfer the Service to any third party except as provided herein; (v) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code for the Service, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation (provided, however, that to the extent Customer intends to engage in any of the foregoing, Customer will notify Brew Love in advance of such activity and will treat the results of such activity as Confidential Information of Brew Love); (vi) remove, alter, or obscure any proprietary notices of Brew Love, its licensors or suppliers included in the Service; (vii) otherwise use or copy the Service except as expressly permitted under this **Section 3**; (viii) send or store Malicious Code; (ix) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (x) attempt to gain unauthorized access to the Service, features thereof, or any of its related systems or networks.

3.4 Publicity. Neither party may issue press releases relating to this Agreement without the other party's prior written consent. Brew Love may include Customer's name and logo in any lists of customers it wishes to make publicly available.

4. Setup, Training and Support.

4.1 Service and Support. Brew Love will provide a reasonable amount (as determined in Brew Love's sole discretion) of technical support via telephone and online during Brew Love's normal business hours, provided that all support requests must be directed to the Brew Love support team as instructed by Brew Love.

4.2 Additional Services. If Customer requires additional professional or other support services not included herein, such services shall be performed at Brew Love's then-current rate for professional or support services and work may be subject to a separate agreement between Brew Love and Customer, which shall be negotiated in good faith between the parties following the request for such services.

5. Hosting & Service Availability.

Brew Love will manage the hosting of the Service and Customer Data uploaded thereto on Brew Love's system. Customer acknowledges and agrees that Customer's use of the Service is subject to the terms of this Agreement as well as any additional policies or terms of use that Brew Love may provide to Customer or make known to Customer with respect thereto (including without limitation the Brew Love Terms of Use and Privacy Policy, and other documents or policies incorporated therein, as may be posted on the Brew Love website). From time to time, and as may be necessary to maintain the proper operation of the Service, Brew Love may take the Service or portions thereof down for repairs, upgrades or routine maintenance. Brew Love will use commercially reasonable efforts to minimize the impact of such operations. Without limiting the foregoing or any other provisions of this Agreement, Brew Love will have no liability or responsibility for repair of or problems with (a) Customer-caused outages or disruptions, (b) problems due to the performance of networks or systems controlled by companies or entities other than Brew Love, or (c) any content or services used or accessed by or with the Service. In addition, Customer understands that although Brew Love will use reasonable security measures, it cannot guarantee that malicious data breach attacks may still be possible, and Brew Love will have no liability whatsoever with regard to damages or liabilities sustained by Customer or any third party as a result of any data breach, unless and to the extent such breach was caused by the gross negligence or willful misconduct of Brew Love. It is Customer's responsibility to stay current with Brew Love's then-current minimum technical requirements for use of the Service and the Service.

6. Fees & Payment.

6.1 User Fees. Brew Love provides access to the Service free of charge for the first 14 days of the Trial Period. In order to access or use the Service after the 14th day of the Trial Period or upon Customer's upgrade to a paid subscription to the Service, Customer shall pay the Fees. All Fees are payable in United States dollars. Except as otherwise specified herein,

Fees are based on services purchased and not actual usage. Payment obligations are non-cancelable, Fees paid are non-refundable.

6.2 Invoicing & Payment. FEES FOR THE SERVICE WILL BE AUTOMATICALLY DRAFTED ON A MONTHLY BASIS USING THE PAYMENT INFORMATION PROVIDED BY CUSTOMER. Charges will be made on the day of the month on which the subscription was first charged, or the last day of the month, whichever comes first. Customer is responsible for maintaining complete and accurate billing and contact information. Customer may make changes to payment information on the Customer's profile page, accessible through the Service.

6.3 Overdue Payments. Any payment not received from Customer by the due date may accrue (except with respect to charges then under reasonable and good faith dispute), at Brew Love's discretion, late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

6.4 Suspension of Service. If Customer's payment fails to process or Fees otherwise become overdue, in addition to any of its other rights or remedies, Brew Love reserves the right to suspend Customer's access to the Service, without liability to Customer, until such amounts are paid in full.

6.5 Taxes. Unless otherwise stated, Brew Love's Fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder, excluding taxes based on Brew Love's net income or property. If Brew Love has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Brew Love with a valid tax exemption certificate authorized by the appropriate taxing authority.

7. Proprietary Rights.

7.1 Reservation of Rights. Subject to the limited rights expressly granted hereunder, Brew Love reserves all rights, title and interest in and to the Service, and all related intellectual property rights, including copyrights, trademarks, service marks, trade secrets, patents, patent applications, know-how, moral rights, contract rights, and other proprietary rights, and all registrations, applications, renewals, extensions, and combinations of the foregoing. No rights are granted to Customer hereunder other than as expressly set forth herein. If any open source code or third party code or other third party elements are included within the Service, they remain owned by the owners thereof and no rights are transferred to either party herein.

7.2 Customer Data. As between Brew Love and Customer, Customer owns all rights, title and interest in and to all Customer Data. Customer grants Brew Love a the right and license to store, use, transmit, or otherwise process any Customer Data as reasonably necessary to provide or improve the Service, including the disclosure to third party hosting or other service providers, or as otherwise provided herein, Brew Love may use Customer Data to compile aggregate data, or create statistics or information related to brewery operations, trends, or other matters which may be derived from the use of aggregated data from its customers, provided however, that Brew Love shall not disclose Customer Data individually or in such a way as to identify Customer.

7.3 Suggestions. Brew Love shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Service any suggestions, enhancement requests, recommendations or other feedback provided by Customer or its Users relating to the operation of the Service.

8. Confidentiality.

8.1 Definition of Confidential Information. As used herein, "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms and conditions of this Agreement, the Customer Data, the Service, business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information (except for Customer Data) shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (iii) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party.

8.2 Confidentiality. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission.

8.3 Protection. Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care).

8.4 Compelled Disclosure. If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

8.5 Remedies. If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

9. Warranties & Disclaimers.

9.1 Warranties. Each party represents and warrants that it has the legal power to enter into this Agreement. Excluding the Trial Period where the Service is provided strictly "as-is," "as available" and "with all faults," Brew Love represents and warrants for the Term that (i) it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof; (ii) the Service shall perform materially in accordance with the Documentation; and (iii) the functionality of the Service will not be materially decreased during a subscription term. In the event of a breach of the limited warranty set forth in this section, Customer shall promptly notify Brew Love in writing specifying such breach in reasonable detail and provide Brew Love with information reasonably requested by Brew Love. Brew Love shall have 30 days following notice of a breach of warranty to cure such breach. If the breach cannot be cured within 30 days, Customer's sole remedy, and Brew Love's entire liability, for breach of this section 9.1 shall be to terminate this Agreement by providing written notice to Brew Love, and Brew Love's refund of one month's Fees paid by Customer to Brew Love for the Service. The limited warranty set forth in this section shall not apply to the extent that the defect or malfunction occurs because (a) the affected Service has not been used in accordance with Brew Love's instructions; (b) the affected Service has been altered or modified by Customer or any third party not expressly authorized by Brew Love in writing; or (c) of misuse, neglect or the malfunctioning of Customer's or a third party's hardware or software, which materially affects the Service.

9.2 DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED FOR IN THIS SECTION 9, THE SERVICE IS PROVIDED "AS IS". WITHOUT LIMITING THE FOREGOING, BREW LOVE DOES NOT REPRESENT, WARRANT OR GUARANTEE THAT THE SERVICE WILL BE ERROR-FREE, UNINTERRUPTED, VIRUS-FREE OR SECURE, OR MEET CUSTOMERS' EXPECTATIONS. BREW LOVE DOES NOT MAKE ANY WARRANTY REGARDING THE SERVICE'S RESULTS OF USE. THE LIMITED WARRANTY SET FORTH IN SECTION

EXCLUSIVE AND BREW LOVE MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS WITH RESPECT TO THE SERVICE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT OR ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE AND THE SAME ARE HEREBY EXPRESSLY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

10. Indemnification.

10.1 Remedy for IP Infringement. If the Service becomes, or in Brew Love's opinion is likely to become, the subject of an infringement claim, Brew Love may, at its option and expense, either (a) procure for Customer the right to continue using the Service; (b) replace or modify the Service so that it becomes non-infringing; or (c) terminate this Agreement upon written notice to Customer, and refund the one month's Fees paid by Customer to Brew Love for the Service. The foregoing shall be Customer's sole remedy and Brew Love's sole liability in the event of a claim of infringement related to the Service.

10.2 Indemnification by Customer. Subject to this Agreement, Customer shall defend, indemnify and hold Brew Love harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with Claims made or brought against Brew Love by a third party alleging (a) that the Customer Data, or Customer's use of the Service in violation of this Agreement, infringes the intellectual property rights of, or has otherwise harmed, a third party; (b) any use of the Service in combination with products, equipment, software, or data not supplied by Brew Love if such infringement would have been avoided without the combination with such other products, equipment, software or data; (c) any use of any release of the Service other than the most current release made available to Customer; (d) any modification of the Service by any person other than Brew Love or its authorized agents or subcontractors, or (e) any breach or alleged breach of any obligation, requirement or term of this Agreement (including Exhibits hereto) by Customer. The foregoing obligations are conditioned on Brew Love (a) promptly giving written notice of the Claim to Customer; (b) giving Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle or defend any Claim unless it unconditionally releases Brew Love of all liability); and (c) providing to Customer, at Customer's cost, all reasonable assistance.

11. Limitation of Liability.

EXCEPT WITH RESPECT TO (I) A BREACH OF A PARTY'S CONFIDENTIALITY OBLIGATIONS

HEREUNDER; (II) CUSTOMER'S INDEMNIFICATION OBLIGATIONS OR (III) CUSTOMER'S INFRINGEMENT OR VIOLATION OF ANY INTELLECTUAL PROPERTY OR OTHER PROPRIETARY RIGHTS OF BREW LOVE, IN NO EVENT SHALL EITHER PARTY OR ITS SUPPLIERS BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, SPECIAL, OR INCIDENTAL DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LOST PROFITS OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, ARISING FROM OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY (INCLUDING NEGLIGENCE), EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, BREW LOVE'S TOTAL CUMULATIVE LIABILITY IN CONNECTION WITH THIS AGREEMENT, THE SERVICE AND ANY OTHER SERVICES PROVIDED BY BREW LOVE TO CUSTOMER HEREUNDER, WHETHER IN CONTRACT OR TORT OR OTHERWISE, WILL NOT EXCEED THE TOTAL FEES PAID BY CUSTOMER TO BREW LOVE HEREUNDER IN THE 12 MONTHS PRIOR TO THE INCIDENT GIVING RISE TO THE BREACH. CUSTOMER ACKNOWLEDGES THAT THIS SECTION REFLECTS THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT BREW LOVE WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY. CUSTOMER ACKNOWLEDGES THAT THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

12. Term and Termination.

12.1 Term of Agreement. This Agreement commences on the Effective Date and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated (the "Term").

12.2 Term of User Subscriptions. User subscriptions commence upon Customer's payment for the Service. User subscriptions shall automatically renew for additional periods of one (1) month at the list price in effect on the date the initial subscription began, unless either party gives the other notice of non-renewal at least 30 days prior to the end of the relevant subscription term.

12.3 Termination for Cause. Brew Love may terminate this Agreement immediately if Customer fails to pay any Fees when due. In addition, either party may terminate this Agreement for cause: (i) upon 30 days written notice of a material breach to the other party if such breach remains uncured at the expiration of such period; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other

proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

12.4 Outstanding Fees. Termination shall not relieve Customer of the obligation to pay any Fees accrued or payable to Brew Love prior to the effective date of termination.

12.5 Retrieval of Customer Data. It shall be the sole responsibility of Customer to retrieve all Customer Data stored within the Service prior to termination of the Agreement by Customer. If Customer has not exported its Customer Data prior to termination, Brew Love will make available to Customer for download a file of the Customer Data via the Service's standard reporting function, within 30 days after termination of the Agreement. After such 30-day period, Brew Love shall have no obligation to maintain or provide any Customer Data and may thereafter, unless legally prohibited, delete all Customer Data in its systems or otherwise in its possession or under its control.

12.6 Surviving Provisions. The following provisions shall survive any termination or expiration of this Agreement: sections 3.4, and 6 through 13.

13. General Provisions.

13.1 Audits and Inspections. Brew Love will have the right to access Customer's account in order to determine compliance with this Agreement. Any Customer Data accessed may be used solely for the purposes of determining compliance with this Agreement and may not be used for any other purpose.

13.2 Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

13.3 No Third-Party Beneficiaries. There are no third-party beneficiaries to this Agreement.

13.4 Notices. All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) the second business day after mailing; (iii) the second business day after sending by confirmed facsimile; or (iv) the second business day after sending by email, if receipt is confirmed by the intended recipient. Notices to Brew Love shall be addressed to Brew Love's address as identified in the preamble, and made the attention of its Chief Executive Officer, or may be sent by email to russell@brewlovesoftware.com. Notices to Customer shall be addressed to Customer's signatory of this Agreement unless otherwise designated below.

13.5 Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right. Other than as

expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

13.6 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

13.7 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld, conditioned or delayed). Notwithstanding the foregoing, either party may assign this Agreement in its entirety, without consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

13.8 Governing Law and Venue. This Agreement shall be governed exclusively by the internal laws of the State of Colorado, without regard to its conflicts of laws rules. The state and federal courts located in La Plata County, Colorado shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party hereby consents to the exclusive jurisdiction of such courts. Each party also hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

13.9 Entire Agreement. This Agreement and the pricing and feature descriptions on the Brew Love website, constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. To the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto, the terms of such exhibit, or addendum shall prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void.