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Web Hosting Terms Of Service

1. INTERPRETATION

“Contract” means, in order of precedence, our Standard Terms and Conditions of Business and the Web Hosting Terms Of Service.

“Customer” means the person named in the Service Schedule. TCW may accept instructions from persons believed to be acting with the Customer’s authority or knowledge.

“Minimum Period” means the first 12 months of the Service.

“Service” means the web hosting, domain registration or other service provided by TCW which is specified in the service schedule.

“Supplier” means TCW Communication Limited.

“TCW” means TCW Communication Limited of 119 Groveley Road, Sunbury-On-Thames, Middlesex TW16 7JZ, registered in England No. 02009143.

2. INTRODUCTION

- 2.1 TCW provides World Wide Web page hosting. TCW reserves the right to suspend or cancel a Customer’s access to any or all Web Services provided by TCW if it is decided that the account has breached the Terms Of Service.

3. SYSTEM, SERVER AND NETWORK USE

- 3.1 TCW reserves the right to refuse service and / or access to its servers to anyone. TCW do not allow any of the following content to be stored or linked to on its servers:

- (i) Illegal Material – This includes copyrighted works, commercial audio, video or music files, and any material in violation of any Local, National, European or International law.
- (ii) Adult Material – This includes pornography, pornographic related merchandising, nudity of any kind (complete or partial), sites depicting nude images, erotic images, incest, bestiality, sexual fetishes, sensual art or otherwise lewd or obscene content or any material of an offensive nature.
- (iii) Warez Material – This includes pirated software, ROMS, emulators, phreaking, hacking, password cracking, IP spoofing, game rooms or MUDs, IRC Bots, Egg Drop programs or any material which TCW deems inappropriate including encrypting or masking any of the above.
- (iv) Violent Material – This includes content that promotes violence, witchcraft, satanic activity or paganism.
- (v) Inappropriate Material – This includes sites offering online gambling, casino functionality, sports book betting (including offshore), online banking services, Internet lotteries and online pharmacies or sites that directly sell prescription or non prescription drugs and pharmaceuticals are prohibited.

- 3.2 TCW reserves the right to refuse services and / or access to its servers to anyone who TCW deems is using them for inappropriate purposes.

- 3.3 Customer may not attempt to introduce harmful and / or malicious programs (viruses, worms, malicious code etc.) into TCW’s servers or network

- 3.4 Customer may not attempt security breaches or disruptions of Internet communication. Security breaches include, but are not limited to, accessing data of which Customer is not an intended recipient or logging into a server or account that Customer is not expressly authorized to access. For section 3.4 only, “disruption” includes, but is not limited to, port scans, flood pings, packet spoofing, denial of service attack and forged routing information.

4. BANDWIDTH AND SERVER USAGE POLICY

- 4.1 In rare cases, TCW may find the customer to be using server resources to such an extent that he or she may jeopardize server performance and resources for other customers. In such instances, TCW reserves the right to impose the High Resource User Policy for the consideration of all our customers.

5. HIGH RESOURCE USER POLICY

- 5.1 Resources are defined as bandwidth and / or processor utilization. TCW may implement the policy detailed in 5.2 to its sole discretion.
- 5.2 If a website is found to be monopolising the resources available TCW reserves the right to suspend that site immediately. This policy is only implemented in extreme circumstances and is intended to prevent the misuse of our servers. Customers may be offered an option whereby TCW continues hosting the website for an additional fee.

6. CHARGES

- 6.1 All accounts are set up on a prepay basis. TCW may allow payment on 30 days credit at its sole discretion.
- 6.2 TCW reserves the right to change prices of accounts or services at any time, however all pricing is guaranteed for the period of prepayment.
- 6.3 Payment is due each anniversary year or month following the date the account was established. Customers will automatically be charged again at the end of their prepay period unless closure notification has already been given. Please refer to section 8.3 for notification period.
- 6.4 In situations where the card number on file is declined or payment has not been received within the terms, TCW will immediately suspend the facility to purchase services on-line through any TCW operated / owned website until the outstanding charge is processed successfully. TCW reserves the right to suspend other services until the outstanding debt is cleared.
- 6.5 The customer is responsible for all money owed on the account from the time it was established to the time that the customer sends a written cancellation request.
- 6.6 Invoices may be sent solely by email and in this case it is the responsibility of the Customer to make sure the email address we have on record is up to date.
- 6.7 After an on-line purchase has been made through any TCW operated / owned website, the customer will receive an email shortly after the transaction has completed. At this point the customer's card will be charged automatically.

7. PAYMENT OPTIONS

- 7.1 In order to streamline our accounting procedures and keep costs down, TCW runs a limited number of payment options. TCW accepts major Credit / Debit cards – MasterCard®, Visa® (not Visa Electron) and Switch or cheque by arrangement.
- 7.2 A Credit / Debit card number will still be required if customers require the facility to purchase domains and other services on-line.
- 7.3 TCW cannot guarantee that a service will be provided until after any received cheques have been cleared.

8. CANCELLATION AND REFUNDS

- 8.1 TCW reserves the right to cancel the service at any time. In this event customers will be entitled to a pro rata refund based upon the remaining period of membership.
- 8.2 If a Customer contravenes TCW's Web Hosting Terms Of Service a refund will not be issued in the event of a cancellation.
- 8.3 The Customer can cancel their account at any time by giving no less than 30 days notice in writing to TCW.
- 8.4 Any incentives offered to the Customer when opening the account will be revoked following cancellation. The Customer may be given the option to purchase services that were offered as start-up incentives, in the event of a cancellation.
- 8.5 Fees charged on a prepay basis are non-refundable following cancellation.
- 8.6 The Customer is not entitled to receive a refund unless TCW cancels the service. In circumstances where TCW is in breach a refund may be due.

9. CHANGES TO THESE TERMS OF SERVICE

- 9.1 TCW can change the Web Hosting Terms Of Service at any time and will notify the Customer by email.
- 9.2 TCW will publish any updated Web Hosting Terms Of Service to its website at <http://www.tcwcom.co.uk>

10. TRANSFER OF RIGHTS AND OBLIGATIONS

- 10.1 Neither party may transfer any of its rights or obligations under these Terms Of Service, without the written consent of the other, except that TCW may transfer its rights or obligations (or both) to a TCW subsidiary or affiliated company.

11. CONFIDENTIALITY

- 11.1 TCW is registered (Z5244736) under the terms of the Data Protection Act and is aware that it has access to, and is entrusted with, information in respect to the business of the Customer, its dealings and transactions, all of which information is, or may be, confidential.

- 11.2 The parties will keep in confidence any information (whether written or oral) of a confidential nature (including data and trade secrets) obtained through this relationship and will not, without the written consent of the other party, disclose that information to any person (other than their employees or professional advisers which in TCW's case may be their suppliers who require the information for matters concerning the current, past or proposed business)

This paragraph 4 will not apply to:

- (i) any information which has been published other than through a breach of these Terms Of Service;
 - (ii) information lawfully in the possession of the recipient before the disclosure under these Terms Of Service took place;
 - (iii) information obtained from a third party who is free to disclose it: and
 - (iv) information which a party is requested to disclose and, if it did not, could be required to do so by law.
- 11.3 This paragraph 11 will remain in effect for 2 years after the termination of a TCW Service covered by these Terms Of Service.

12. INDEMNIFICATION AND RELATIONSHIP OF PARTIES

- 12.1 The Customer agrees to indemnify and hold TCW, its employees, suppliers, agents and professional advisers harmless from any and all demands, lawsuits, claims, liabilities, losses, costs and expenses, including reasonable attorney fees and costs asserted against TCW of defence for any matter arising from or relating to products or services provided or agreed to be performed by TCW including any product sold by the Customer, its agents, employees or assigns.

- 12.2 The Customer agrees to defend, indemnify and hold harmless TCW against liabilities arising out of:

- (i) any injury to people or property caused by any products sold or otherwise distributed in connection with TCW's server.
- (ii) any material supplied by Customer infringing or allegedly infringing on the proprietary rights of a third party.
- (iii) copyright infringement
- (iv) any defective products sole to Customer from TCW's server.

- 12.3 The Customer agrees that nothing contained herein shall be deemed to create a relationship between TCW and Customer by nature of partnership, joint venture or otherwise. Both parties acknowledge and agree that TCW has no interaction with the data or substance of Customer's website, except as necessary to maintain the website on the web server either by configuration change or if Customer requests TCW's web design service.

13. DISCLAIMER

- 13.1 TCW reserves the right to revise its policies and services at any time and will notify the customer.
- 13.2 In conjunction with The Supply of Goods and Services Act 1982, TCW will carry out its work with reasonable care and skill.
- 13.3 If the service were not carried with the requisite level of care and skill defined by The Supply of Goods and Services Act 1982, Customer would be entitled to seek reimbursement for damages suffered as a result of this.

14. STATUTORY RIGHTS

- 14.1 This agreement does not affect your statutory rights as a consumer.

15. COPYRIGHTS

- 15.1 All work undertaken by our web design team remains the property of TCW until such time that full and final settlement is received and the customer indicates satisfaction with the work completed.

16 LEGALITIES

- 16.1 If a complaint is received or any legal authority makes notification to TCW then we reserve the right to suspend service provision without notice until such time that a resolution is reached.
- 16.2 Under the circumstances described in 16.1, TCW will not consider or offer any refunds.

17 CONTRACTS

- 17.1 All contracts are for 12 months unless otherwise indicated. After this period, contracts roll over on a month-to-month basis and can be cancelled with 30 days notice, unless otherwise agreed between the parties.

18 COMPLAINTS

- 18.1 Any complaint regarding TCW's service or conduct must first be received in writing to our postal address.

19 BANDWIDTH

- 19.1 Bandwidth allowance is detailed on your service plan and unless otherwise stated, overages will be charged at £17+VAT per GB per month.
- 19.2 Amendments to bandwidth quotas must be agreed one month in advance to qualify that month for the increased allowance.

20 NETWORK

- 20.1 For the terms of our network stability, please see our Service Level Agreement (SLA) section 23 of this document.

21 EMAIL

- 21.1 TCW makes no guarantees that emails can be delivered within certain time frames or that viruses will not be attached.
- 21.2 TCW cannot be held liable for loss of business or reputation through events outside of our control. If such an event occurs, TCW will decide if that is the case.
- 21.3 Use of TCW's servers in the following manner is expressly prohibited:
- (i) Sending unsolicited commercial email messages (UCE), including the sending of "junk mail" or other advertising material to individuals who did not specifically request such material, who were not previous customers of Customer or with whom Customer does not have an existing business relationship ("email SPAM").
 - (ii) Sending UCE with reference to an email address domain hosted by TCW.
 - (iii) Sending UCE with reference to any domain or website hosted by TCW external to but not limited to TCW's network.
 - (iv) Sending UCE with reference to a static IP address on TCW's network.
- 21.4 TCW reserve the right to suspend and / or immediately terminate any account following a violation of the Email service agreement which may result in further penalties and refund ineligibility.

22 SERVICE LEVEL AGREEMENT (SLA)

- 22.1 TCW will monitor and maintain its network up-time to be not less than 99.97 percent. This applies to TCW's network only and does not guarantee the up-time of the Telehouse network or any other international carrier beyond TCW's direct control.
- 22.2 In circumstances when outages occur beyond our direct control, TCW will use its best efforts to restore service without delay.
- 22.3 TCW will respond to outages with two hours during TCW's business hours which are 9:00AM to 5:30PM Monday to Friday. Out of business hours, TCW will respond within four hours. Our target repair time is four hours and eight hours (out of hours).
- 22.4 If TCW is unable to cure any problem that is attributable to a third party, we will consider this to be our problem but we will only make refunds to the level that we have been able to obtain from the third party that has failed to cure the problem in our target repair time.