

## **Hosting Account Terms and Conditions**

This Contract covers the General Terms and Conditions which apply to all visitors and Users of our network. These Terms provide the complete and exclusive Terms and Conditions that supersede any other terms and conditions.

### **Definitions**

"Advertisers" means advertisers of products or Services whether free or not

"Authorised Software" means Software placed on the Service by Us for You to use

"Band Width" means your Customers access and use of your Website

"The Company" means Sigma Associates (UK) Ltd

"The Contract" means the Contract between You and Us incorporating these terms and conditions.

"Due Date" means the date upon which payment is due which will be upon the expiration of the seventh day of the date of any invoice issued to You unless otherwise specifically stated in writing

"Hosting" means the making available of the customers domain name to the Internet community.

"Illegal" means any act or acts which are capable of breaching the criminal law in England and Wales.

"Initial Term" means twelve months

"In Writing" means by letter, e-mail or faxed communication

"Material" means text, graphics, data or information provided by You or a third party to Us or Material provided by Us to You.

"Notice" means in writing by post, e-mail or faxed communication

"Renewal Term" means a further twelve months after the Initial Term

"Server" means our computer connected directly or indirectly to the Internet that provides web pages to users

"Service" means the computer/internet services provided by Us .

"Visitors" means any person accessing the Web-Website

"WWW" means world wide Web Service available on the Internet.

"We/ Us" means Sigma Associates (UK) Ltd

"Website " means the area on our computer system allocated to You for the purpose of this Order.

"You" means any user who visits the Website whether as a registered user or not

Any words in the singular include the plural and vice versa. All definitions, notes, terms and conditions referred to in this Contract form part of the Contract as if they were expressly set out in it.

This Contract shall be for the Initial Term and shall automatically continue thereafter for the Renewal Term unless and until terminated by either party in accordance with these terms and conditions.

Any attempt to visit part of our network to which You do not have authorised access will constitute an abuse of the hosting terms. Persistent abusers will be deleted/ reported to their ISP and may be prosecuted.

### **1. VIRUS PREVENTION**

It is your responsibility to ensure that:-

You do not upload a virus to the Web space provided by Us which could infect our server.

You do not allow a virus to enter our internet community by permitting Internet Users knowingly or otherwise to download files containing viruses.

## **2. USE OF SERVICE**

Upon accessing the Service You may print individual pages on paper, store individual pages electronically on disc or display individual pages on a computer screen but You may not store the content of the Website on a server nor reproduce, copy, disseminate or modify the content of the Service, except as hereafter described.

You must not allow any software to reside upon or access or attempt to access our Server that may harm degrade, or place an unnecessary load on our Server or the Service.

You must abide by the Sigma Associates (UK) Ltd Acceptable Use Policy as stated below.

Sigma Associates (UK) Ltd Acceptable Use Policy (AUP)

- Sigma Associates (UK) Ltd requires all Customers / subscribers to be good Citizens of the Internet.
- Adult content that is legal under US law is acceptable,
- We do not tolerate SPAM (unsolicited commercial Email). SPAM is a plague on the Internet.

The following activities are expressly prohibited:

### **1. SPAM / Unsolicited Commercial Email (UCE)**

Do not SPAM, facilitate SPAM or allow your customers to SPAM. Do not host, or allow to be hosted, any sites or information that is advertised by SPAM from other networks. Violation of this policy carries severe penalties and will be pursued to the fullest extent possible including criminal and civil prosecution.

We understand that there will be a few complaints any time large quantities of Email are sent. However, Sigma Associates (UK) Ltd must respond promptly to SPAM complaints in order to prevent our IP address space from being blocked.

Your service will be disconnected without refund if:

You don't have an opt-in list. We expect you to be able to respond to complaints with the source of the person's Email address who complained. The use of "harvested" email lists where addresses have been taken from web sites is grounds for immediate termination of service.

You don't have a removal process that permanently removes recipients from your lists and sends confirmations via Email.

You forge header information or improperly identify the sender.

You don't respond to inquiries from Sigma Associates (UK) Ltd Abuse within one business day.

Anti-SPAM actions against you threaten Sigma Associates (UK) Ltd's network or IP address space.

After your first warning from the Sigma Associates (UK) Ltd Abuse Department you will be charged at £75 / hour if we must further process SPAM complaints. In the event that emergency action is required by Sigma Associates (UK) Ltd to resolve actions by anti-SPAM organizations to blacklist Sigma Associates (UK) Ltd IP addresses or other threats to the Sigma Associates (UK) Ltd network you will be charged at our emergency double-time rate of £150 / hour with a one hour minimum.

Do not setup an open mail relay that is not password protected that can allow spammers to send SPAM. Please contact us if you have questions.

2. Hacking or any perpetration of security breaches

3. Illegal activities

4. Child pornography or any activities harmful to minors. You must be 18 to be a Sigma Associates (UK) Ltd customer.

5. Fraudulent activity

6. Trademark or Copyright infringement including use or distribution of pirated software

7. Utilization of Microsoft software that is not properly licensed.

8. Network attacks or any unfriendly effort to effect service on another network or server

9. Virus distribution

Investigations, disruptions to service, no refunds:

We reserve the right to disable service or terminate service and / or remove content in order to investigate suspected violations of this AUP without first giving notice. The cost of any investigations will be charged to the Customer at £75 per hour during normal business hours. Emergency investigations are charged double-time at £150 / hour with a one hour minimum. We also reserve the right to disable your server if we suspect that it is being attacked.

You are responsible for the use of your server, including transfer and bandwidth, even use by unauthorized users or hackers.

Please note that this AUP is subject to change and it is the Customer's responsibility to regularly check for modifications.

Sigma Associates (UK) Ltd does not issue refunds for terminating service due to suspected AUP violations.

### **3. LINKS FROM OTHER WEBSITES**

You must obtain our written consent before linking from any other Web page to your Website. Where other Websites are linked to ours, there is no implication that We in any way endorse the content or policies of that third party Website and We will not accept any liability for any claims as a result of the content or activity of a third party Service.

### **4. SECURITY/YOUR OBLIGATIONS**

Upon registration as a User of the Service You will receive a unique password. You must not record your password in any way that means it can be identified as your password. If You have reason to believe that another person knows or may know your password You must inform Us immediately. We cannot be held liable for any loss should You reveal your password to any third party.

You must not pass to any unauthorised person information relating to the login name and password. In the event that your login name and password are used by an unauthorised person, We accept no responsibility and You will be liable for any loss or damage and all additional charges levied by Us howsoever arising there from.

You must not allow any act whereby any unauthorised access is gained to any information or resources of any body corporate or person, individual, partnership, government agency, national institution, charity or recognised organisation without first having obtained authority from those persons or institutions.

You must not do or permit to be done any act or omission the result of which would have the effect of bringing into disrepute the good name of Sigma Associates (UK) Ltd.

You must not perform any action which will result in the reduced performance of the Server to the detriment of other Users.

You must not use the Server to send unsolicited e-mail to other Internet users. We reserve the right to make a change in respect of any direct or indirect costs incurred by Us in dealing with or processing unsolicited e-mails.

### **5. COPYRIGHT AND INTELLECTUAL PROPERTY**

You must not upload material which is in breach of copyright. We accept no responsibility for your actions in either uploading material to the WWW or in your transfer of any material to other Websites if such material is in breach of the copyright of a third party.

### **6. YOUR PROPRIETARY RIGHTS**

As between You and Us, your content shall remain your sole and exclusive property, including, without limitation, all copyrights, trademarks, patents, trade secrets, and any other proprietary rights previously belonging to You. Except as provided in this Section, nothing in this Agreement shall be construed to grant Us any ownership right in, or license to your Content provided by You to Us. We take no responsibility and accept no liabilities whatsoever for your content.

### **7. CONTENT OF SERVICE**

We reserve the right to suspend, alter or amend the extent of and/or nature of any entry within the Service at any time and without notice and for any reason.

### **8. NETWORK MAINTENANCE**

In order to undertake Network Maintenance, parts of the network will occasionally be closed. This will usually occur outside the hours of 9.00am - 5.00pm (UK time) Monday to Friday other than in the case of an emergency.

We shall restore your data, as part of Website maintenance, provided restoration is necessary solely due to our deliberate actions/omissions and these deliberate actions omissions result in the wipe out of the data from the Website. You are not entitled to restores, unless this Service is offered by Us on each occasion.

#### **9. LIABILITY/ LIMITATION OF LIABILITY**

Whilst We make every effort to ensure that the Service is fault free We make no guarantee, no warranty or representation either express or implied in relation to the whole or part of the Service that it will be fault free or that any third party Websites linked through our Service will be fault free.

We do not accept any liability and shall not be held liable for any losses or claims arising directly or indirectly from any inability to access the Service or any errors, interruptions, omissions or inaccuracies in the Service. In any event and in no circumstances shall We be liable for any loss either direct or indirect of profits, business or anticipated savings or any other direct or indirect consequential loss arising out of the provision of the Service to You. In addition, We do not accept any liability for any errors and omissions by any third party Websites or any information provided on the Service by third parties.

In no circumstances shall We be liable for any loss whether direct or indirect arising from the contents of any information placed by You onto the Service.

In no circumstances shall We be liable for any loss whether direct or indirect of profits, business or anticipated savings or for any direct or indirect consequential loss whatsoever by the failure of or any problem experienced by You in Your operation of the Website.

In the event of our being held liable then the extent of that liability (including costs or fees) will be limited to a maximum of the total of the actual price received by Us in the current year in respect of the individual Contract in dispute concerning the claim.

For the avoidance of doubt We have no obligation duty or liability in contract and/or tort for breach of statutory duty or otherwise beyond that of a duty to exercise reasonable skill and care.

#### **10. INDEMNITY**

You will indemnify Us in full against any loss expenses or damage [to the Website and/or Us/The Company] howsoever arising including but not limited to indemnification for any loss or expenses sustained by reason of any breach of this Contract and any actions, proceedings (civil or criminal), claims or demands in any way connected with this Contract brought on by or threatened against Us by a third party which are caused by or arise from any direct or indirect action on your part, your servants/agents or carried out by Us pursuant to your instructions.

Your indemnification to Us includes but is not limited to our legal and other professional fees The indemnity will be unlimited as to value and / or time and without set off or counterclaim.

You will indemnify Us in full in accordance with the above in respect of any breach howsoever arising of Trade Mark Laws, Copyright Laws, the Law of Privacy and Publicity, Communication Regulations, Defamation, Data Protection, Equal Opportunities Discrimination, Human Rights Legislation and statute which may give rise to a Civil or Criminal Liability.

Any materials on the Website shall comply with any legal requirements including (but not limited to) those pertaining to non-discrimination, equal opportunity and decency.

Each provision of this condition is to be construed as a separate limitation applying and surviving even if for any reason one or other of the said provisions is held inapplicable or unreasonable.

#### **11. STORAGE AND USE OF MATERIAL**

Any Material that We receive be it by e-mail or otherwise may be used by Us for the purposes of know-how, techniques or concepts including the development manufacture or marketing of products and/or Services unless You expressly state in the e-mail that all rights are reserved and in the case of confidentiality that the contents are confidential.

Additionally Webmail on Budget Shared Hosting is not intended for storage of emails and is only available for viewing emails. Any emails that are required should be downloaded to the customers pc for storage via a client such as Outlook. For this reason we accept no liability for loss of emails from the Webmail application as for various reasons such as housekeeping or virus scans, the files may be removed.

We may allow or cause carefully selected third parties to contact You by e-mail or otherwise in order to provide You with updates and information.

Upon our request You undertake to discontinue storage and use of and return to Us any Material obtained from the Service.

## **12. UNSUITABLE MATERIAL**

You must not publish or disseminate or cause or permit to be published or disseminated or in any way assist in the publication or dissemination of any defamatory material.

You must not upload any material which in the absolute and unfettered discretion of Us is considered to be pornographic, barbaric, overtly tasteless, contrary to public decency or in any other way which brings into disrepute the good name of Sigma Associates (UK) Ltd.

We reserve the right to randomly inspect Websites and in the event that any such material has in our sole view been uploaded to that Website, We reserve the right, to terminate this contract forthwith, and We also reserve the right to inform the Police or other relevant authorities.

## **13. ASSIGNMENT**

You will not seek to assign this Contract without seeking our express consent. We reserve the right to withhold such Consent without providing any reason for so doing. We reserve the right to assign the benefit of this Contract by giving prior notice of any assignment to You.

## **14. TERMINATION**

(a) We reserve the right to immediately terminate this Contract and use of the Service upon any breach of the Terms of use

(b) If You do not pay any invoice within the time for payment specified in the invoice or if You break any of these terms and conditions then We reserve the right to terminate this Contract with immediate effect without prior notification to You by giving notice in writing to You to this effect at your last known address.

(c) Termination of this Contract by Us will result in our retaining all monies received from You and You will not be entitled to a refund on monies paid.

(d) Upon termination We will remove all materials held on our server relating to You and will remove all privileges which You are entitled to as the customer including in particular the disconnection of the Website from our server.

(e) Either You or We may terminate this Agreement by giving notice to the other in writing providing at least [seven days notice] You will not be entitled to any refund however a pro rata refund maybe offered if Hostzone feel it is appropriate. If the account is cancelled within 28 days of purchase then a £25 administration charge will be applied .

## **15. CHARGES/ PAYMENT/ INTEREST**

The full contract price as per the invoice must be paid to Us prior to our providing the Service contemplated by this Contract unless agreed in writing to the contrary with You.

You shall pay Us an annual charge of the amount set out in the invoice for the Website. The first such charge shall be made prior to the connection of the Website to our server and on any every anniversary thereof until such time as this contract is terminated as here in after provided. Each package is allocated a monthly bandwidth allocation as specified in the hosting account details. If this bandwidth is exceeded then you will be charged in 10GB increments at the rate of £3 per GB over and above your allocation. If this amount is deemed to be an unacceptable amount then the site may be disconnected until payment is received.

After the first anniversary of the connection of the Website to our server, We reserve the right to increase the annual charge by notice in writing to You such increase to take effect on the anniversary date next after notification is received.

The charge for the annual connection of the Website to the server shall be such as We shall determine from time to time.

Value Added Tax and all other taxes and charges where applicable will be added at the appropriate rate to the total of all charges from Us to You.

Any queries that You may have concerning any invoice should be addressed to Us within seven days of the date of invoice failing which the invoice will be regarded as agreed by You.

Payment of the invoice and all other charges from You should be made in full within fourteen days of the date specified on the invoice unless a longer period of time is agreed in writing by Us with You.

Once an invoice is overdue in excess of the period of seven days or such other extended period as may be agreed We reserve the right to charge interest at 2% per month or part thereof from the date of the invoice calculated on a daily basis for all sums that are due to Us.

We reserve the right to pass any invoice where fees are outstanding for forty two days or more after the date of issue to an outside agency for collection without further notification being given to You. You will be liable for any costs incurred by Us in so doing. Should We have to issue Court proceedings to obtain payment of monies owing to it then the customer will be responsible for all legal fees and disbursements incurred by Us.

**16. CHANGES TO TERMS**

We reserve the right to update or alter these Terms and Conditions at any time without prior notice whereupon the new Terms and Conditions will be immediately incorporated into the next Contract between Us.

**17. DISPUTES AND JURISDICTION**

The Terms and Conditions of use are governed by and are to be construed in accordance with English Law and fall within the exclusive jurisdiction of the English Courts.

**18. THIRD PARTY RIGHTS ACT** The Contracts (Rights of Third Parties) Act 1999 is expressly excluded from this Agreement

Your Agreement to these current Terms and Conditions for using the Website is signified by recording the date and time each time You log into the Website.

**19. FORCE MAJEURE**

We are not liable for any breach of this Contract if the breach was caused by an act of God, insurrection or civil disorder, war or military operations, national or local emergency, acts of omissions of government, highway authority or other competent authority, our compliance with any statutory obligation industrial disputes of any kind (whether or not involving our employees), fire, lightening, explosion, flood, subsidence, weather of exceptional severity, acts or omission of persons for whom We are not responsible (including in particular other telecommunication Service providers), or any other cause whether similar or dissimilar outside our reasonable control.