

Terms and Conditions

TERMS AND CONDITIONS

THE FOLLOWING TERMS AND CONDITIONS AFFECT YOUR RIGHTS AND LIMIT OUR LIABILITY. PLEASE READ THEM CAREFULLY.

1. GENERAL

- 1.1. The following terms and conditions ("Terms and Conditions") apply to the use of the services (the "Services") to be provided by Savage Hosting Ltd. ("Savage Hosting") to the customer (the "Customer") as defined in the Business Customer Agreement (the "Customer Agreement") entered into by Savage Hosting with the Customer to which these Terms and Conditions are incorporated therein and form a part. The Customer Agreement also includes (i) any attachments as noted in the Customer Agreement, (ii) any enrolment and other order forms executed by Savage Hosting and the Customer in connection with the Customer Agreement, and (iii) any modification made by Savage Hosting as permitted hereunder. If there is a conflict or inconsistency between these Terms and Conditions and another term of the Customer Agreement, the other term of the Customer Agreement will apply provided that section 5.3 will apply in all circumstances unless specifically amended.
- 1.2. Services are provided solely on the basis of, and are subject to, service, facility and equipment availability. Savage Hosting is not required to provide universal service and will not provide a service to any person or company who, in the opinion of Savage Hosting, would compromise the technical, financial or operational integrity of Savage Hosting or its facilities or network.
- 1.3. Savage Hosting is authorised to act as the Customer's agent in ordering access connection facilities or other services as required in connection with the provision of the Services ordered by the Customer.

2. INSTALLATION AND SERVICE

2.1. Installation

The Customer will make all necessary preparations required, as set out in the Customer Agreement, to permit installation, maintenance and operation of the Services and will provide Savage Hosting, and its suppliers of communication services and equipment, reasonable access to the Customer's equipment, to perform any work required to provide the Services. The Customer will have available, at least five days prior to the scheduled installation date, all data (physical & technical) in respect of details to, but not solely to, the setup/move/modifications to the service that Savage Hosting are providing and need in order to provide this service. Impairment of the Services due to any equipment or software maintained by, used by or, and not limited to, owned by the Customer not provided by Savage Hosting will not relieve the Customer of its obligation to pay for the Service.

2.2. Installation Delay or Cancellation

If the Customer cancels or delays a request for a Service after installation work has started, but before the Service is fully installed, the Customer will be liable for any and all installation charges, removal costs, site restoration costs and any applicable termination fee. Payment of these charges, costs and fees will be due on receipt of invoice.

3. SERVICE AVAILABILITY GUARANTEE

3.1. 99.9% Availability Service is guaranteed to be available 99.9% of the time in a given calendar quarter (the "Availability Guarantee"). If the Customer reports one or more outages of a Service, and total downtime results in less than 99.9% availability during the that quarter, Savage Hosting will, when requested, credit the Customer account 25% of the annual fee (and only if the payment is annually in advance) paid for the applicable Service. If the fees are paid in any period that is less than yearly no credit will be provided. The Service interruption begins to be measured when the Customer calls Savage Hosting to report that the Service is unavailable.

3.2. Definition of Unavailable

3.2.1. For the purposes of determining "availability" in section 3.1, the following rules apply. Web site hosting is considered to be unavailable if the Savage Hosting - hosted web site cannot be accessed (i.e. viewed) from the Internet due to problems on Savage Hosting's network or servers. E-mail is unavailable if the Customer is not able to send or receive e-mail due to problems on Savage Hosting's network or servers. A Service is not considered unavailable if that Service is merely degraded or slow unless service performance falls below the minimum committed rate as set out in any Service Level Agreement.

3.2.2. It may be necessary to temporarily suspend service for technical reasons or to maintain the network, equipment or facilities, the notice of which will be provided to the Customer at least one day in advance. Such suspension of service will be considered an interruption of service if it falls outside of the regularly scheduled network maintenance window as defined in Section 3.2.3 below. In such cases, prior notification by the Customer is not required to be considered a service outage and will be counted towards the Availability Guarantee.

3.2.3. Savage Hosting has designated the hours between 1AM - 4AM (GMT) every Sunday as its scheduled network maintenance window and reserves the right to perform any such maintenance without notice during that period.

3.3. Exclusions from Availability Guarantee.

The Availability Guarantee does not extend to interruptions or unavailability as a result of the following:

- i. scheduled maintenance required to Savage Hosting's systems and network between the hours of 1AM and 4AM (GMT) on Sunday mornings;
- ii. Customer equipment or network failures, including, but not limited to, software configuration errors and Customer-owned hardware failures;
- iii. problems outside of the Savage Hosting network including problems beyond Savage Hosting's interconnection at the Internet Network Access Points; or
- iv. Force Majeure (as defined below).

3.4. Suspension of Guarantee

The Availability Guarantee does not apply if, and for as long as, the Customer is in default under the Customer Agreement.

4. SAVAGE HOSTING'S RIGHT TO VARY SERVICES

4.1. Service Migration

Savage Hosting reserves the right to update, upgrade or otherwise migrate the Customer's existing Services, products or technologies to services, products or technologies which are of equivalent or better quality at no cost or additional charge to the Customer, including the migration of services from third party service providers to Savage Hosting or alternative third party service suppliers.

The Customer will be responsible for any costs necessary to upgrade or move the Customer's Domain Service other technologies to access the updated, upgraded or migrated service.

The sole recourse for the Customer if it is not willing to accept any such update, upgrade or migration is the right to terminate the Customer Agreement on 30 days' prior written notice received by Savage Hosting within 15 calendar days of the Customer's receipt of written notice of Savage Hosting's intent to update, upgrade or migrate service. Savage Hosting will waive the right to all Term Contract cancellation penalties for any termination invoked under the terms of this section 4.1.

4.2. Exceeding Contractual Limits

The Customer's storage requirement and bandwidth utilisation for fixed limit Services must remain within the parameters associated with the Customer's account as set out in the Customer Agreement. Savage Hosting may monitor and enforce the parameters associated with the Customer's account.

The Customer acknowledges that, for Internet service, enforcement may include a refusal to store incoming mail and/or not permit further download traffic on the Customer's website.

4.3. Investigations

Savage Hosting has no obligation to monitor content on the Services. Savage Hosting has the right to monitor content and service levels electronically from time to time and to disclose any information necessary to: satisfy any law, regulation or other governmental request or to assist Savage Hosting in the pursuit of any claim against the Customer; operate the Services properly; or protect Savage Hosting and its customers and service providers. Savage Hosting reserves the right to either refuse to post or transmit, or to remove any information or materials, in whole or in part, that Savage Hosting determines are unacceptable, undesirable or in violation of the Customer Agreement or these Terms and Conditions.

5. SAVAGE HOSTING'S RIGHT TO TERMINATE SERVICE

5.1. Termination by Savage Hosting

In addition to Savage Hosting's right to terminate or suspend Services as provided elsewhere in these Terms and Conditions, Savage Hosting may at any time discontinue any or all Services, cancel a request for Services and terminate its obligations under the Customer Agreement without incurring liability upon:

- i. for any material violation by the Customer of any of the provisions of the Customer Agreement and/or these Terms and Conditions;
- ii. if the Customer becomes bankrupt, insolvent, takes any proceeding seeking relief from creditors, ceases or threatens to cease to carry on business, becomes subject to any execution, seizure or restraint in respect of equipment supplied by Savage Hosting, fails to provide security to Savage Hosting when reasonably requested or otherwise does not meet Savage Hosting's credit requirements;
- iii. in the event of any intentional or de facto transfer or assignment of or use of Services supplied by Savage Hosting which Savage Hosting, acting reasonably, determines to be an improper use;
- iv. where any applicable law prohibits Savage Hosting from furnishing such Services; or
- v. where any leases, licences, easements, rights of way, permits or regulatory authorisations or approvals required by Savage Hosting to provide the Services in accordance with the Customer Agreement cannot be obtained or renewed without commercially unreasonable expense to Savage Hosting, or are terminated or revoked for any reason.

In connection with termination pursuant to paragraphs (i), (ii) and (iii), the Customer will be responsible for all costs incurred by Savage Hosting in connection with removing the Services and related equipment and for the termination charges that would have been payable had the Customer terminated the Customer Agreement pursuant to section 6.14 hereof.

5.2. Effect of Termination

A termination of the Customer Agreement for any reason will not affect or prejudice any rights or obligations which have accrued or arisen under the Customer Agreement prior to the time of termination which rights and obligations will survive the termination of the Customer Agreement.

In particular, and without limitation of the above, the Customer will remain liable to Savage Hosting for the payment of all sums of money payable to Savage Hosting under the Customer Agreement up to the date of termination and for the performance of all the obligations that require Savage Hosting to do or perform certain matters after the termination of the Customer Agreement.

5.3. Remedies

Despite any other term of the Customer Agreement or these Terms and Conditions, if Savage Hosting terminates the Customer Agreement as a result of a breach by the Customer of any of the terms of the Customer Agreement or these Terms and Conditions or if the Customer terminates the Customer Agreement pursuant to section 6.14 after it has breached the Customer Agreement or these Terms and Conditions, Savage Hosting is entitled, in addition to its right to terminate the Customer Agreement, any additional remedies available to it at law for the losses it has suffered as a result of the breach.

5.4. Determination of Intent

Occasionally, unintentional abuse is misclassified as intentional. If the Customer believes its activity has been misclassified, it may appeal to Savage Hosting's senior management. The Customer's sole remedy and Savage Hosting's sole liability in respect of any misclassification of activity will be credit for service fees for the duration the misclassification, applied to the Customer's account.

6. PRICING AND PAYMENT

6.1. Rates and Charges

The rates and charges for the Services will be as set out in the Customer Agreement as amended from time to time in accordance with these Terms and Conditions. Savage Hosting is not required to refund or credit charges for unused Services except as noted on the Customer Agreement.

6.2. Changing Plans

The Customer may request, subject to any restrictions set out in the Customer Agreement with respect to a contract for a specified term (a "Term Contract"), which term is set out in the Customer Agreement, a change to a different Savage Hosting pricing plan by submitting a written change request to Savage Hosting. Any such pricing plan changes take effect within 7 days following Savage Hosting's confirmed receipt and acceptance of the change request.

- 6.3. **Responsibility for Charges Incurred**
The Customer will pay all fees and other charges incurred in respect of the Customer's account, including charges for any purchases made through the Services and any surcharges incurred while using any supplemental services or features of the Services for which a surcharge is applicable. Unless otherwise expressly noted, all taxes are extra. The Customer will pay all applicable taxes, and any access charges relating to the use of the Services, whether such charges are billed by the service provider to Savage Hosting or directly to the Customer.
- 6.4. **Payment Terms**
Savage Hosting will render invoices annually, in advance and each invoice is due within 30 days of the beginning of each yearly period. The Customer may pay its Savage Hosting account pursuant to the payment options set out in Schedule A. No interest will be charged if the invoice is paid within 30 days of the invoice date.
- 6.5. **Invoice Disputes**
Notice of any disputes regarding an invoice must be made by the Customer in writing and received by Savage Hosting within 30 days from the invoice date. No claim may be made by the Customer in respect of an invoice after such period.
- 6.6. **Insufficient Funds** The Customer will reimburse Savage Hosting for all costs associated with collecting delinquent or dishonoured payments in addition to a £20 administration fee.
- 6.7. **Suspension or Cancellation for Non-Payment**
Savage Hosting may suspend or cancel a Customer's Services if the Customer has any invoice outstanding 30 days or more. Any Customer having any account that is unpaid may, at Savage Hosting's option, have its files archived or purged and its services cancelled or suspended. While suspended, the Customer's account will continue to accrue periodic charges for Services subject to the Customer Agreement. Upon payment of all accrued charges a service reconnection fee of £20 will be charged to the Customer to remove an account from suspension.
- 6.8. **Other Charges**
All installation and equipment charges will be billed at the time that Service is committed for. Installation and equipment charges and registration and set-up fees are non-refundable except as section 6.8 applies.
- 6.9. **Account Information**
The Customer is entitled upon request to receive copies of its historical account, account details or billing information for the previous 5 billing cycles subject to payment of an administration fee of £50.

6.10. **Period of Service**
With respect to Services to be billed on a periodic basis, the initial term of the Customer Agreement will commence on the date the first of those Services commences and will automatically renew for successive periods equal in length to the initial term set out in the Customer Agreement until terminated as set forth below. The Customer may terminate the Customer Agreement and the use of all or any of the Services at the end of the then current term by providing at least 30 days' notice prior to the end of that term. The following cancellation charges, where applicable, will be due and payable immediately:

- i. for month-to-month service, the monthly charge for the month in which that Service will terminate;
- ii. for service under a Term Contract, charges for the remainder of the term or in the case of a renewal period until contract termination.

7. CUSTOMER RESPONSIBILITIES

7.1. **Authority**
Savage Hosting will only recognise and act on the instructions of those individuals whose names appear on the Customer Agreement or any list of contact names submitted by the Customer in writing, as the person(s) authorised to accept, modify or terminate the Services or the Customer Agreement.

7.2. **Software Licence Agreement**
The Customer will comply with the terms of any Software Licence accompanying software provided by Savage Hosting. In the event another software licence accompanies specific software provided by Savage Hosting, that licence shall apply to the specific software it accompanies.

7.3. **Proprietary Right**
The Customer obtains no proprietary right or interest in, or any right to use of, any specific type of facility, service, equipment, address, number, process or code associated with any Service except as expressly noted in the Customer Agreement. Title to all equipment and software provided by Savage Hosting is reserved to Savage Hosting and does not pass to the Customer. The Customer's only right is to use the equipment and software on the terms provided in the Customer Agreement and/or the Software Licences.

7.4. **Customer Information**
For purposes of identification, billing and marketing, the Customer will provide Savage Hosting from time to time with accurate, complete, and updated information including Customer's legal name, address, telephone number(s), e-mail addresses and applicable payment data. The Customer will notify Savage Hosting within 30 days of any such changes to this information.

- 7.5. **Content on Web Site**
The Customer is solely responsible for all content available on or through the Customer's web site(s) and will protect Savage Hosting against any losses it suffers (including legal fees) as a result of the content of the Customer's site(s) or those belonging to its customers.
- 7.6. **Domain Name**
The Customer is responsible for ensuring that use of any domain name selected by it does not conflict with the rights of any other person. Savage Hosting cannot guarantee, set aside or in any other way reserve domain names on behalf of the Customer. Savage Hosting will use reasonable commercial efforts to obtain a requested domain name but will in no way whatsoever be held responsible for nor be liable to the Customer for an inability to secure or otherwise obtain a requested domain name. Savage Hosting will not be liable to the Customer or any other person arising from actual or threatened termination of the right to use a domain name.
- 7.7. **Internet Protocol Address**
The Customer acknowledges that Savage Hosting is the controller of the Internet Protocol ("IP") static address(s) assigned to a domain name(s) and web site(s) hosted in Savage Hosting facilities, which Savage Hosting will supply. Savage Hosting reserves the right to change the addresses at any time upon 30 days' notice to the Customer. Upon termination, all IP addresses assigned by Savage Hosting to the Customer will revert to Savage Hosting and the Customer will have no further right to use such addresses. The Customer will co-operate with Savage Hosting in effecting any such change or transfer.
- 7.8. **Compliance with Law**
The Customer will use the Services only as permitted by applicable laws, regulations, rules, decisions and orders of applicable governmental and regulatory authorities. The Customer will comply with the rules and regulations applicable to any network that is accessed through the Services. The Customer will not use the Services to carry out any activity or solicit performance of any activity that is prohibited by law or regulation or facilitates or immediately threatens the violation of any law (including intellectual property law or regulation) or violates the Customer Agreement, these Terms and Conditions or Savage Hosting's Acceptable Use Policy ("Policy"), which Policy is incorporated herein and is subject to change from time to time, as posted on the Savage Hosting website from time to time. In particular and without limiting the foregoing, the Customer will not:
- (a) knowingly interfere with the lawful use by others of any Service;
 - (b) modify, reverse engineer or, decompile, disassemble, or create derivative works based on software provided by Savage Hosting or any Savage Hosting service provider or supplier unless expressly permitted under the terms of the Software Licence Agreement in Schedule B or other applicable software licence;
 - (c) use the Services to deliberately release computer viruses or other unauthorised or unwanted computer programs or data onto the Internet;

- (d) use the Savage Hosting name, logo or trademark in any promotional materials, contracts, bills, or similar names or documents, or in association with the Customer's products or services without the express written authorisation of Savage Hosting;
- (e) in the case of Internet Service, violate generally accepted Internet use guidelines, commonly known as "Netiquette", to the extent the principles do not conflict with the provisions of the Customer Agreement;
- (f) use the Services to invade the privacy of third parties, impersonate Savage Hosting personnel or other Savage Hosting customers or tend to damage the name or reputation of Savage Hosting, its affiliates or agents;
- (g) engage in any activity in connection with the Services that is abusive, profane, libellous, slanderous, threatening or otherwise harassing, including posting material in any newsgroup that is off-topic according to any public statement of the newsgroup;
- (h) solicit Savage Hosting customers to patronise competing services;
- (i) use the Services to violate or tamper with the security of any computer, equipment or program belonging to Savage Hosting or any other service provider participating with or connected to Savage Hosting Services;
- (j) using Savage Hosting's resources engage in Internet Service bulk mailing of any kind, "spamming", or any e-mail abuse;
- (k) use the Services to engage in the practice of hacking or any other unauthorised attempt to access or otherwise gain entry to the filter systems or network of Savage Hosting, its customers, service providers or any other third party;
- (l) use any process, program, or tool via the Services for the purposes of guessing, deriving or in any other way attempting to obtain the passwords of Savage Hosting, its service providers or customers of Savage Hosting or any other service provider;
- (m) cause or intentionally damage Savage Hosting systems or other networks through Savage Hosting systems.

7.9. Liability for Improper Use

Violation of the terms of Section 7.8 by the Customer may result in any/all or some of the following:

- (i) immediate termination or suspension of Services to the Customer by Savage Hosting without prior notice,
- (ii) civil or criminal liability,
- (iii) monetary penalties,
- (iv) costs incurred to enforce the Customer's compliance with section 7.12, and/or
- (v) clean-up costs to be charged to the Customer by Savage Hosting at a minimum of £50/hour.

- 7.10. Indemnification
The Customer will indemnify and save Savage Hosting harmless from and against all loss, liability or damages of any type and expense, including reasonable legal fees, arising from any and all claims by any third party, including users and service providers, in connection with the improper use of the Services (and related equipment) by the Customer or the Customer's failure to comply with its obligations under the Customer Agreement. This indemnity will survive termination of the Customer Agreement.
- 7.11. System Requirements
The Customer will be responsible for maintaining all its hardware and software in proper working order and versions at a level sufficient to meet the service provided by Savage Hosting. The Customer acknowledges that the Savage Hosting system requirements will change over time and such changes may require the Customer to purchase additional equipment, software or other property or services.
- 7.12. Equipment.
Savage Hosting is acting only as a reseller or licensor of any hardware, software and equipment (collectively, the "Equipment") offered in the Customer Agreement that was manufactured by a third party. Savage Hosting shall not be responsible for any changes in Services(s) that cause Equipment to become obsolete, require modification or alteration, or otherwise affect the performance of the Services.

8. ACCESS

8.1. Restoring

For the purpose of restoring the Services in the event of an interruption, the Customer acknowledges that Savage Hosting may require access to any of the relevant Customer equipment. The Customer will provide such access immediately upon Savage Hosting's request at no charge to Savage Hosting. If the Customer fails to do so, the Customer will have no remedy or entitlement to credit for any continuing or subsequent failure of Savage Hosting to meet any service guarantee.

8.2. Other Access

Savage Hosting may, upon reasonable notice (determined in the circumstances, but not less than 48 hours), make such inspections, tests, installations, repairs and adjustments as it deems necessary for the operation of Savage Hosting's network, or the Customer's or Savage Hosting's systems/services or connecting facilities and for verifying the Customer's compliance with this Customer Agreement. The Customer will make available to Savage Hosting, without charge, such facilities, equipment and records as are reasonably necessary in the circumstances.

9. INUREMENT, ASSIGNMENT

- 9.1. The Customer Agreement is binding upon and will inure to the benefit of the parties and their respective successors, administrators, personal representatives and permitted assigns.
- 9.2. Neither the Customer Agreement nor any right hereunder may be assigned, transferred or otherwise disposed of in whole or in part by the Customer without the prior written consent of Savage Hosting which consent will not be unreasonably withheld. Without restricting the generality of the foregoing, the Customer will be deemed to have assigned, transferred or disposed of the Customer Agreement upon a change in the direct or indirect control of the Customer, including a sale of all or a substantial part of its assets. In such a case, the Customer must notify Savage Hosting and provide it with the relevant "new customer" information including, but not limited to, the name and address of the new controlling party.

10. CONFIDENTIAL INFORMATION

- 10.1. The Customer warrants that all information transmitted by it to Savage Hosting is true and correct. The Customer warrants that it has been authorised to transmit such information to Savage Hosting and that Savage Hosting is authorised to receive and hold such information. Savage Hosting warrants that the information will only be used for the purposes of providing the Services, managing the Customer file and administration of functions such as, but not limited to, credit assessment, billing and collection. Furthermore, the information contained in the Savage Hosting Customer file is restricted to the internal use of Savage Hosting employees except where expressly noted in the Customer Agreement or as required to ensure the efficient supply of services to the Customer, to interact with a service provider interconnecting with Savage Hosting facilities on behalf of the Customer, to support accounts receivable collection agents employed by Savage Hosting or as required by any legal representative duly authorised to obtain access to any such confidential information.
- 10.2. Savage Hosting and the Customer may disclose to each other confidential information, including but not limited to, pricing, invoices, billing or marketing materials either directly, by verbal or written communication, or indirectly, by permitting employees of one party to observe various operations or processes conducted by the other. Any information, including invoicing information that reveals or otherwise permits the calculation of Savage Hosting pricing is confidential. The sharing of confidential information is made on the basis of the confidential relationship established between the parties and each party agrees to take reasonable precautions to protect from disclosure confidential information of the other party which it has received.
- 10.3. This Section 10 will survive termination of this Agreement.

11. LIMIT ON WARRANTIES AND LIABILITY OF SAVAGE HOSTING

- 11.1. It is hereby understood and agreed that the amounts payable to Savage Hosting under the Customer Agreement are based upon the value of the Services, products and equipment as well as the scope of liability set forth in the Customer Agreement and these Terms and Conditions and are unrelated to the value of the property or business of the Customer or third parties (such as, but not limited to, customers of the Customer).
- 11.2. Except as specifically provided in the Customer Agreement, Savage Hosting makes no express or implied warranty or condition, whether of merchantability, fitness for a particular purpose, or otherwise, with respect to any service, product or equipment provided to the Customer by Savage Hosting. Neither Savage Hosting nor any of its underlying service providers, information providers, licensors, employees, or agents warrants that service will be uninterrupted or error free; nor does Savage Hosting or any of its underlying service providers, information providers, licensors, employees, or agents make any warranty as to the results to be obtained from use of their services, products or equipment. EXCEPT AS SPECIFICALLY PROVIDED IN THE CUSTOMER AGREEMENT, ALL SERVICES, PRODUCTS AND EQUIPMENT ARE DISTRIBUTED PURSUANT TO THE CUSTOMER AGREEMENT ON AN "AS IS", "AS AVAILABLE" BASIS WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WHETHER PURSUANT TO STATUTE OR OTHERWISE. THIS CLAUSE MAY ONLY BE AMENDED, CHANGED OR REPLACED BASED ON A SEPARATELY EXECUTED SERVICE LEVEL AGREEMENT (SLA) WHICH MUST SPECIFICALLY OUTLINE SAVAGE HOSTING'S COMMITMENTS AND CUSTOMER COMPENSATION DUE TO SAVAGE HOSTING'S FAILURE TO MEET IT'S CONTRACTED COMMITMENTS.
- 11.3. Savage Hosting is not responsible for any selection or retention of, or the acts or omissions of, third parties in connection with the Services including those with whom Savage Hosting may contract on the Customer's behalf to provide portions of the Services.
- 11.4. IF SAVAGE HOSTING SHOULD BE FOUND LIABLE FOR LOSS, DAMAGE OR INJURY DUE TO FAILURE OF SERVICES, PRODUCTS OR EQUIPMENT IN ANY RESPECT UNDER ANY LEGAL PRINCIPLE OR DOCTRINE OF ANY KIND, IT WILL NOT BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES AND IN ANY EVENT, EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE CUSTOMER AGREEMENT, ITS LIABILITY FOR DIRECT AND ANY OTHER DAMAGES WILL BE LIMITED TO AN AMOUNT EQUAL TO THE TOTAL CHARGES FOR THE SERVICES IN QUESTION FOR THE BILLING YEAR DURING WHICH THE FAILURE OCCURRED.
FOR AVOIDANCE OF DOUBT, SAVAGE HOSTING WILL NOT BE LIABLE FOR ANY LOST PROFITS, LOSS OF ANTICIPATED OR ACTUAL REVENUE, LOSS OF DATA, LOSS OF USE OF ANY INFORMATION SYSTEM, FAILURE TO REALISE EXPECTED COST SAVINGS OR ANY OTHER COMMERCIAL OR

ECONOMIC LOSS OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THE CUSTOMER AGREEMENT OR THE PROVISION OF SERVICES, EVEN IF SAVAGE HOSTING HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. The provisions of this section 11 will apply if loss, damage or injury, irrespective of cause or origin, results, directly or indirectly, to person or property from performance or non-performance of obligations imposed on Savage Hosting, its employees or agents by the Customer Agreement or from the negligence, active or otherwise, of Savage Hosting, its agents employees, directors, officer, affiliates and subsidiaries.

- 11.5. Savage Hosting will have no liability whatsoever to the Customer or any third person arising from the failure, for any reason, to activate any Services on the activation date requested by the Customer.
- 11.6. Savage Hosting will not be liable for and Savage Hosting will be indemnified and held harmless by the Customer against, all claims, demands, losses or liabilities, including but not limited to, fees and expenses of counsel, arising out of any of the following:
- (a) claims for libel, slander, harassment, illegal, improper or unauthorised use of the Services or related facilities by any person, infringement of copyright or unauthorised use of any trade-mark, trade name or service mark, arising from the material, data, information or other transmissions of the Customer or those authorised by the Customer using Savage Hosting's facilities or Services;
 - (b) claims for infringement of intellectual property (including patents, trade-marks and copyright) arising from combining or connecting Savage Hosting's Services, equipment or facilities with services, equipment, facilities and systems of the Customer or the Customer's, employees or agents or those authorised by the Customer;
 - (c) claims by those to whom the Customer provides services or from whom the Customer may acquire services, equipment or facilities for use in conjunction with the Services;
 - (d) any and all business practices of the Customer or those authorised by the Customer; or
 - (e) damage to business or property or injury to or death of any person, occasioned by or in connection with any act or omission of the Customer or of any person utilising the Customer's codes, services, equipment or facilities with or without the consent or knowledge of the Customer.

11.7. THE CUSTOMER ASSUMES TOTAL RESPONSIBILITY AND RISK FOR THE USE OF THE SERVICE AND AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS SAVAGE HOSTING LTD., ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SERVANTS, SUBSIDIARIES, AFFILIATES AND THIRD PARTIES WHO CONTRIBUTE TO THE SERVICE FROM ANY LOSS, DAMAGE, OR COST (INCLUDING LAWYERS' FEES) RESULTING FROM THE VIOLATION OF THESE TERMS AND CONDITIONS.

11.8. Section 10 will apply in the event of a breach of these Terms and Conditions or a breach of the Customer Agreement, by either Savage Hosting or the Customer. Section 10 will survive termination of the Customer Agreement and/or these Terms and Conditions.

12. NOTICE

Any notice, request, demand, consent or other communication provided or permitted under the Customer Agreement will be in writing and will be deemed to be sufficiently given if personally delivered, sent by fax, sent by e-mail or sent by registered mail postage prepaid, to the party for which it is intended at its address set forth in the Customer Agreement. Any notice so given will be deemed to have been received on the date on which it was delivered in person, sent by fax (with transmission confirmation), or sent electronically, or if sent by registered mail only (which method of service will not be a valid form of providing notice during a postal strike), five business days after the sending.

13. AMENDMENT

These Terms and Conditions and the Customer Agreement with attachments thereto, including the rates, charges or other fees associated with the Services are subject to change from time to time, except as noted in specific Term Contracts, as provided for in writing by Savage Hosting. Upon notification of any such change, the Customer becomes liable for all new rates, charges or fees and is deemed to have accepted all changes, unless the Customer terminates the Customer Agreement by notice to Savage Hosting sent within 15 days from the Customer's receipt of such notification.

If the change in these Terms and Conditions, rates or charges is ordered or necessitated by any regulatory authority, these changes are binding on the parties and do not give rise to the opting out provision of this section. Further, any adverse affect by any regulatory authority on Third Party Providers will not give rise to the opting out provision of this section. If the Customer chooses to terminate, the termination Clause of Section 6.10 will not apply.

14. ENTIRE AGREEMENT

The Customer Agreement, including these Terms and Conditions and any attachments to the Customer Agreement and these Terms and Conditions, any modifications made by Savage Hosting as permitted hereunder and any enrolment and other order forms executed by Savage Hosting and the Customer in connection with the Customer Agreement constitute the entire agreement between the parties pertaining to the subject matter of the Customer Agreement. There are no warranties, conditions, or representations (including any that may be implied by statute) and there are no agreements in connection with such subject matter except as specifically set forth or referred to in the Customer Agreement.

No reliance is placed on any warranty, representation, opinion, advice or assertion of fact made either prior to, contemporaneous with, or after entering into the Customer Agreement, or any amendment or supplement thereto, by any party to the Customer Agreement or its directors, officers, employees or agents, to any other party to the Customer Agreement or its directors, officers, employees or agents, except to the extent that the same has been reduced to writing and included as a term of the Customer Agreement, and none of the parties to the Customer Agreement has been induced to enter into the Customer Agreement or any amendment or supplement by reason of any such warranty, representation, opinion, advice or assertion of fact. Accordingly, there will be no liability, either in tort or in contract, assessed in relation to any such warranty, representation, opinion, advice or assertion of fact, except to the extent contemplated above. **ONLY THESE TERMS AND CONDITIONS AND THE CUSTOMER AGREEMENT WILL APPLY REGARDLESS OF THE TERMS AND CONDITIONS CONTAINED IN ANY PURCHASE ORDER SUBMITTED BY THE CUSTOMER, AND THE TERMS OF THE CUSTOMER'S PURCHASE ORDER WILL BE VOID.**

15. FORCE MAJEURE

- 15.1. No party will be liable under the Customer Agreement for failure to carry out its provisions to the extent that such failure is caused by sabotage, vandalism, accidents, fire, flood, acts of God, civil commotion, riots, strikes, lock-outs, insurrections, wars or any other civil or public disturbances, acts or restraints of any governmental authority, civil or military, including the orders and judgements of courts, or priorities granted at the request or for the benefit, directly or indirectly, of any governmental authority or any other cause beyond its control and which was not reasonably foreseeable as at the date of the Customer Agreement ("Force Majeure"). Savage Hosting or the Customer, as the case may be, will promptly inform the other of the existence of any condition of Force Majeure and will consult together to attempt to find a mutually acceptable solution to any impediments to the fulfilment of their respective obligations under the Customer Agreement.
- 15.2. If a condition of Force Majeure prevents a party from carrying out the material provisions of the Customer Agreement and the condition continues for a period longer than 60 days, the other party may terminate the Customer Agreement by written notice specifying the default and giving a termination date that is no less than 30 days after the date of notice.

16. LANGUAGE OF AGREEMENT

Savage Hosting and the Customer confirm that they wish to have the Customer Agreement, these Terms and Conditions and any attachments written in English only.

17. OTHER TERMS

Time is of the essence of the Customer Agreement. Words used in the singular number only will include the plural and vice versa, and words used in one gender will include the other gender.

18. CHOICE OF LAW AND SEVERABILITY

These Terms of Use shall be governed by the laws of England and Wales.

- 18.1. These Terms and Conditions and the Customer Agreement shall be construed and enforced in accordance with and governed by the laws of England and Wales. The Customer agrees that the jurisdiction for resolution of any dispute arising under these "Terms and Conditions" shall be the Commonwealth of The Bahamas and the Customer hereby consents and submits to the jurisdiction of the courts of the Commonwealth of The Bahamas.
- 18.2. If any provision of these Terms of Use is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavour to give effect to the parties' intentions as reflected in the provision, and the other provisions of these Terms of Use remain in full force and effect.
- 18.3. The Customer represents and warrants that it has full power and authority to execute and deliver the Customer Agreement and to perform its obligations hereunder. If an individual, the Customer warrants that he or she (a) is not a minor, and (b) will use the Services in the course of carrying on a business.
- 18.4. Savage Hosting's decision not to enforce a particular provision of this Agreement at any time does not waive its right to enforce that provision at some other time unless expressly waived in writing by Savage Hosting.
- 18.5. If any provision of the Customer Agreement or attachments or these Terms and Conditions is determined by a final non-appealable order of a court of competent jurisdiction to be invalid, Savage Hosting will be entitled, within 30 days after such determination to terminate the Customer Agreement on notice to the Customer. If no such notice is given by Savage Hosting, the invalid provision will be deemed to be void and the remaining provisions of the Customer Agreement will remain in full force.

SCHEDULE A

PAYMENT OPTIONS

1. Payment Methods

i. Cheque

The Customer may use the cheque payment method. If the Cheque is cancelled or deemed invalid due to, but not limited to, missing, incomplete or illegible information, Savage Hosting may either request a new cheque to be sent, which should be received within 7 days, or that the amount in respect of the payment be paid directly (where possible) by cash or BACS.

ii. Wire/Bank Transfer

The Customer may use the BACS transfer payment method. Payments for monthly/annual fees and all other charges will be processed by Savage Hosting on the first calendar day of the month. Please contact our offices for our BACS instructions.

SCHEDULE B

SOFTWARE LICENCE AGREEMENT

This is a legal agreement (this "Agreement") between the customer (the "Customer") and Savage Hosting Ltd. ("Savage Hosting").

1. Grant

Savage Hosting hereby grants to the Customer a non-exclusive licence (the "Licence") to use software provided by Savage Hosting in connection with the services to be provided to the Customer by Savage Hosting (the "Services"). All such software and related documentation (collectively, the Software") is provided to the Customer on the following terms:

The Customer may:

- Use the Software for the purpose of using Services; or
- Copy the Software solely for archival or back-up purposes, provided any copy must contain all of the original Software's proprietary notices.
- The Customer may not:
 - Permit others to use the Software except under the terms listed above;
 - Modify, translate, reverse engineer, decompile, disassemble, or create derivate works based on the Software;
 - Copy the Software (except for back-up purposes);
 - Rent, lease, transfer or otherwise transfer rights of Software; or
 - Remove any proprietary notices or labels on the Software.

2. Software

The Licence does not grant to the Customer any right to any enhancement or update.

3. Title

Title, ownership rights, and intellectual property rights in and to the Software will remain in Savage Hosting and/or its suppliers. The Software is protected by copyright law and international copyright treaties. Title, ownership rights, and intellectual property rights in and to the content accessed through the Software are the property of the applicable content owner and may be protected by applicable copyright or other law. This Licence gives the Customer no rights to such content.

4. Limited Warranty

Savage Hosting warrants that for a period of 90 days from the date of acquisition of the Licence by the Customer, the Software, if operated as directed, will substantially achieve the functionality it is intended to achieve. Savage Hosting does not warrant, however, that the Customer's use of the Software will be uninterrupted or that the operation of the Software will be error-free or secure. In addition, the security mechanism implemented by the Software has inherent limitations, and the Customer must determine that the Software is free from defects in material and workmanship and will so remain for 90 days from the date the Customer acquired the Licence to the Software. If the Customer has paid a specific licence fee for the Software, Savage Hosting's sole liability for any breach of this warranty will be in the sole discretion of Savage Hosting:

- i. to replace the defective media; or

Company Number: 05705053

Name & Registered Office: Savage Hosting Ltd, 5 Newey Avenue, Bedworth, Coventry, Warwickshire, CV12 0HG

- ii. to advise the Customer how to achieve substantially the same functionality with the through a procedure different from that set forth in the documentation; or
- iii. if the above remedies are impracticable, to refund the licence fee the Customer paid for the Software.

If the Customer has not paid a specific licence fee, Savage Hosting may, in its discretion, undertake either or both of the remedies (1) and/or (2) above but otherwise will have no liability to the Customer. Replaced Software will be covered by this limited warranty for the period remaining under the warranty that covered the original Software. Savage Hosting will use reasonable commercial efforts to repair, replace, advice or refund pursuant to the foregoing warranty within 30 days of being so notified. This is a limited warranty and it is the only warranty made by Savage Hosting. Savage Hosting makes no other express warranty and no warranty of non-infringement of third parties' rights (some provinces and territories do not allow exclusions or limitations of this nature, so this exclusion and limitation may not apply to the Customer in whole or in part) and no oral or written information given by Savage Hosting, its employees or agents will create a warranty.

The duration of implied warranties, including, without limitation, warranties of merchantability and of fitness for a particular purpose, is limited to the above limited warranty period. None of Savage Hosting's dealer's agents, or employees are authorised to make any modifications, extensions, or additions to this warranty. If any modifications are made to the Software by the Customer during the warranty period; if the media is subjected to accident, abuse, or improper use; or if the Customer violates the terms of this Agreement then this warranty will immediately be terminated. This warranty will not apply if the Software is used on or in conjunction with hardware or software other than the unmodified version of the hardware and software with which the Software was designed to be used as described in the documentation accompanying the Software.

5. Limitation of Liability

Under no circumstance and under no legal theory, tort, contract or otherwise, will Savage Hosting or its service providers be liable to the Customer or any other person for any indirect, special, incidental, or consequential damages of any character including, without limitation, damages for loss of goodwill, work stoppage, computer failure or malfunction or any and all other commercial damages or losses, or for any damages in excess of the fees paid by the Customer to Savage Hosting for Internet services provided by Savage Hosting in the month prior to the month in which the Customer's claim arose, or for any claim by any other party. This limitation of liability will not apply to liability for death or personal injury to the extent applicable law prohibits such limitation.

6. Termination

This Agreement will terminate automatically if you fail to comply with the terms and conditions described above. All limitations of warranties and liabilities will survive termination of this Agreement.

7. Audit

Savage Hosting reserves the right to have audits conducted to verify the Customer's compliance with this Agreement.

8. Miscellaneous

Company Number: 05705053

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This Agreement represents the complete agreement concerning this Licence between the parties and supersedes all prior agreements and representations between them. The Customer acknowledges that it has read this Agreement, understood it and agrees to be bound by its terms and conditions. It may be amended only by a written amendment executed by both parties. The acceptance of any purchase order placed by the Customer is expressly made conditional on the Customer's assent to the terms set forth herein, and not those contained in the purchase order. If any provision of this Agreement is held to be unenforceable for any reason, such provision will be reformed only to the extent necessary to make it enforceable. Savage Hosting may assign its rights and obligations under this Agreement to any affiliated entity without the Customer's prior written consent. The parties have required that this Agreement and all documents relating thereto be drawn up in English. This Agreement will be governed by the laws of England and Wales. Any controversy or claim arising out of or relating to these Terms of Use or the Services will be settled by binding arbitration in accordance with the commercial arbitration rules of the London Court of Arbitration. Any such controversy or claim must be arbitrated on an individual basis, and must not be consolidated in any arbitration with any claim or controversy of any other party. The arbitration must be conducted in London, England, and judgment on the arbitration award may be entered into any court having jurisdiction thereof. Either you or Savage Hosting may seek any interim or preliminary relief from a court of competent jurisdiction in England, as necessary to protect the rights or property of you or Savage Hosting.