



UK Dedicated Servers Limited

Dedicated Server Terms of Service

Last Revision 31/10/2011

Telephone:
0371 910 1 620

Postal Address:
UK Dedicated Servers Limited
61 Somers Road Industrial Estate
Rugby
Warwickshire
CV22 7DG

This legally binding contract (the "Agreement") is by and between UK Dedicated Servers Limited ("UK Servers"), and you and your assigns, employees, agents or contractors ("You", "Your", the "Customer") and is effective as of the date you purchase dedicated hosting services from UK Servers. This Agreement sets forth the terms and conditions of Your use of UK Server's Dedicated Server services (collectively, the "Services") and represents the entire agreement between You and UK Servers relating to the Services. By purchasing the Services, You acknowledge and agree that You have read, understand, acknowledge and agree to be bound by all the terms and conditions of this Agreement, along with any new, different or additional terms, conditions or policies that UK Dedicated Servers Limited may establish and post on its website from time to time.

1 - The Service

1.1 UK Dedicated Servers Limited reserve the right to decline services and goods to the customer.

1.2 UK Dedicated Servers Limited does not guarantee the setup and provision of a service by a certain date.

1.3 UK Dedicated Servers Limited reserves the right to perform notified maintenance on all services provided to The Client and wherever possible will provide advanced notice of such maintenance.

1.4 The customer must ensure they provide UK Dedicated Servers Limited with a valid name, address, telephone and email contact address. The customer must inform UK Dedicated Servers Limited of any change in their contact details within three days of any changes.

1.5 The Customer must ensure his usage of the service provided by UK Dedicated Servers Limited is within the guidelines set out in the UK Dedicated Servers Limited Acceptable Usage Policy or AUP.

1.6 Unless otherwise stated the service UK Dedicated Servers Limited provides is unmanaged, although the Company will attempt to provide support for any 3rd party software and programs, no guarantee is made on the level of support UK Dedicated Servers Limited provides for any 3rd party software.

1.7 Any problems caused by The Customer to service, (which include, but are not limited to, deletion of necessary operating system files, accidental or intentional infection by a virus/Trojan) may result in extra charges to The Client.

1.8 UK Dedicated Servers Limited shall have the right upon prior written notice to relocate the Customer Equipment. In the event of an emergency, UK Dedicated Servers Limited may relocate the Customer Equipment within such time as may be reasonable and without prior written notice as the circumstances reasonably warrant.

2 - Payment and Termination

2.1 The Customer shall pay the Charges for the Services set out when signing up for the services on the Order form.

2.2 The customer is entering a thirty day monthly rolling contract unless specified in an additional service agreement between UK Dedicated Servers Limited and the customer.

2.3 The customer shall provide no less than three days notification before the anniversary date for billing. The customer will provide this notification via email to cancellations@ukservers.com to recorded post to UK Dedicated Servers Limited registered office address or by means of a cancellation support ticket through the customers control panel account at <https://control.ukservers.com>

2.4 UK Dedicated Servers Limited shall be entitled 30 days before and at any time after the expiry of the Service Term to increase Service Charges for a Service upon thirty (30) days written notice to the Customer.

2.5 UK Dedicated Servers Limited shall invoice the customer fourteen days before their service renewal date unless specified in an alternative agreement.

2.6 UK Dedicated Servers Limited requires all invoice to be paid within fourteen days of creation unless another agreement is in place between UK Dedicated Servers Limited and the customer.

2.7 UK Dedicated Servers Limited reserves the right to suspend and/or disconnect any services for a customer with invoices that have not been paid by their due date.

2.8 UK Dedicated Servers Limited reserves the right to prohibit the customer access to their equipment or data if the Customer has overdue invoices.

2.9 Interest shall accrue on overdue invoices from the due date until payment (whether before or after judgment) at the rate of 1.5% per month. Interest shall accrue not withstanding termination of this Agreement or any Service for whatever reason.

2.10 All sums due to UK Dedicated Servers Limited are exclusive of value added tax and any other applicable sales tax or duty which shall be invoiced and payable at the then prevailing

2.11 The Customer hereby acknowledges and agrees that its obligations to pay all amounts and charges due hereunder, and the rights of UK Dedicated Servers Limited to such payments shall be absolute, unconditional and irrevocable and shall not be affected by any circumstances of any character, including, without limitation, any set-off, abatement, counterclaim, suspension, recoupment, reductions, rescission, defense or other right or claim that Customer may have against UK Dedicated Servers Limited.

2.12 Upon cancellation of service UK Dedicated Servers Limited will not be able to provide the customer with any refund for services which have been provisioned to the customer.

2.13 The customer shall submit any billing disputes to UK Dedicated Servers Limited no later than three days of an invoice due date.

2.14 Customers will be notified by email when they reach 80% of their monthly data transfer allowance. UK Servers cannot guarantee delivery of this email and the customer should check their bandwidth usage via the graphs and tables provided in their control panel account with UK Dedicated Servers Limited.

2.15 Customers that exceed their monthly data transfer limit are automatically charged at a rate of £0.05/Gb of data transfer.

3 - Service Suspension

3.1 UK Dedicated Servers Limited may, at its sole discretion and without prejudice to any right which it might have to terminate this Agreement or a Service, elect to suspend forthwith provision of any Service until further notice in the event that:

- (a) UK Dedicated Servers Limited is entitled to terminate this Agreement or such Service; or
- (b) UK Dedicated Servers Limited is obliged to comply with an order, instruction or request of government, an emergency service organisation or other competent administrative authority which affects its ability to provide the Service.

3.2 UK Dedicated Servers Limited may from time to time suspend a Service in accordance with any applicable SLA to carry out any necessary maintenance work to the Network or the Service Equipment.

3.3 In the event the suspension is implemented as a consequence of the breach, fault, act or omission of the Customer, the Customer shall pay UK Dedicated Servers Limited all reasonable costs and expenses incurred by the implementation of such suspension and/or recommencement of the provision of the Service and UK Dedicated Servers Limited may recover any other losses suffered as a result of such breach, fault, act or omission.

3.4 UK Dedicated Servers Limited shall not be liable for any loss, damage or inconvenience suffered by the Customer as a result of any suspension pursuant to Clause 3.1 save where the circumstances set out in Clause 3.1 are solely attributable to the negligence of UK Dedicated Servers Limited.

3.5 Any communications between UK Dedicated Servers Limited and the client are strictly confidential any disclosure of telephone calls, quotations, support tickets or email communication between the parties to media organisations, other businesses, discussion forums or any other third parties is strictly prohibited and may result in immediate service suspension.

4 - Indemnity

4.1 The Client agrees to fully indemnify and keep UK Dedicated Servers Limited, its subsidiaries, affiliates, officers, partners, employees and agents fully indemnified from and against all actions, demands, costs (on a full indemnity basis), losses, penalties, damages, liability, claims and expenses (including but not limited to legal fees) whatsoever incurred by it or them and arising from any of the following:

- (i) the Client's breach of the Contract and/or this Agreement or its negligence or other act, omission or default;
- (ii) the operation or break down of any equipment or software owned or used by the Client but not the Hardware and/or Software;
- (iii) the Client's use or misuse of the Services;
- (iv) the Client infringing (whether innocently or knowingly) third party rights (including without limit IPRs).

5 - Disclaimer

5.1 The Client acknowledges that the allocation of risk in the Contract reflects the price paid for the Services, Hardware and Software and that it is not within the control of UK Dedicated Servers Limited how or for what purposes they are used. If any exclusion or limit of liability in the Contract is held to be invalid and UK Dedicated Servers Limited becomes liable for loss or damage that may lawfully be limited then such liability shall be limited to the amount paid by the Client for the Services.

5.2 UK Dedicated Servers Limited shall have no liability to the Client for any loss arising from any material, data or instructions supplied whether digitally or otherwise by the Client or on its behalf which is incomplete, inaccurate, illegible, out of sequence or in the wrong form or arising from late arrival or non-arrival or any other fault by the Client or on its behalf. No action, claim or demand arising out of or in connection with the Contract or this Agreement may be brought by the Client against UK Dedicated Servers Limited more than one year after the cause of action has occurred.

5.3 UK Dedicated Servers Limited is not responsible for any delay, malfunction, non performance and/or other degradation of performance of any of the Services, Hardware or Software caused by or resulting from any alteration, modification and/or amendments due to changes and specifications requested or implemented by the Client whether or not beyond those already supplied.

5.4 Neither UK Dedicated Servers Limited nor anyone else who has been involved in the creation, production or supply of the Services, Hardware or Software shall be liable to the Client or any other person for any loss in contract, tort (including negligence or breach of statutory duty) or otherwise howsoever and whatever the cause thereof by reason of or in connection with this Agreement, the Contract or the Services, Hardware or Software for any: (i) economic loss of any kind whatsoever, or (ii) loss of profit, data, business contracts, revenues or anticipated savings, or (iii) damage to the Client's reputation or goodwill, or (iv) loss resulting from any claim made by any third party, or (v) special, indirect or consequential loss or damage of any nature whatsoever, and the Client shall indemnify UK Dedicated Servers Limited from and against any claim which may be made against UK Dedicated Servers Limited in respect thereof. Some jurisdictions do not allow the exclusion or limitation of implied warranties or of liability for consequential or incidental damages and therefore the above may not apply to the Client.

6.0 Service Level Agreement – SLA

6 - Uptime Guarantee

"Uptime" refers to the amount of time the Services are available, as measured solely and only by UK Dedicated Servers Limited internal monitoring systems. "Downtime" refers to the amount of time the Services are unavailable, as measured solely and only by UK Dedicated Servers Limited internal monitoring systems.

6.1 UK Dedicated Servers Limited guarantees that its Networking and Connectivity services will be available 100% of the time. In the event such level of service is not provided, UK Dedicated Servers Limited will credit the customers account in an amount as determined in the chart below, reflecting credit percentages of the monthly fees paid by the for the Services, but not payments made for any of the following products and services: domain name registration, software licenses, IP address charges, set up fees, shipping and handling, SSL certificate fees, labour charges, and other services which are unrelated to Uptime.

100% will result in a credit of: 0%

99.1% to 99.9% will result in a credit of: 5%

98% to 99% will result in a credit of: 10%

95% to 97.9% will result in a credit of: 25%

90% to 94.9% will result in a credit of: 50%

89% or below will result in a credit of: 100%

6.2 The customer must request a credit by emailing customer.accounts@ukservers.com the email must include the dates and times of the Downtime, the name and IP address of the server or servers which experienced the Downtime. The request must be received by UK Dedicated Servers Limited within ten (10) business days after the incident of Downtime. If the unavailability is confirmed by UK Dedicated Servers Limited, credit will be applied to the customers account within thirty (30) days of receipt of the customers credit request.

6.3 The total amount credited to the customer in a particular month under this Agreement shall not exceed the total amount of fees paid by the customer for such month for the affected Services. Credits are exclusive of any applicable taxes charged to the customer or collected by UK Dedicated Servers Limited.

6.4 The provisions of the Agreement pertaining to Force Majeure are unaffected by these terms referring to Uptime Guarantee. Moreover, downtime caused by any of the following shall not result in any obligation by UK Dedicated Servers Limited to provide credit to You:

1. emergency maintenance
2. scheduled maintenance
3. system upgrades
4. domain name system (DNS) problems outside of UK Dedicated Servers Limited control
5. issues with FTP, POP, IMAP, or SMTP customer access
6. Acts or omissions by You or any of Your employees or agents, resulting in downtime
7. Any negligence, willful misconduct, or use of the services in breach of UK Dedicated Servers Limited Acceptable Use Policy
8. Problems with users' web browsers, DNS, or other caching that might make it appear the Services are unavailable even though others can still access the UK Dedicated Servers Limited servers.

7 - Hardware Replacement Guarantee

UK Dedicated Servers Limited strives to maintain the integrity of the hardware used to provide its services, and any Downtime caused by hardware failure shall be credited pursuant to this Agreement. UK Dedicated Servers Limited maintains a stock of all essential hardware necessary to provide the Services. UK Dedicated Servers Limited shall replace any and all substantially malfunctioning hardware within 1 hour of UK Dedicated Servers Limited becoming aware of such substantial malfunction.

The amount of time for replacement of hardware shall be measured from the moment that UK Dedicated Servers Limited determines that the hardware must be replaced, and does not include time spent diagnosing the problem, researching other solutions, investigating the cause of the failure or time spent installing software, restoring backups or other, similar situations.

In the event that UK Dedicated Servers Limited fails to meet this hardware replacement guarantee, UK Dedicated Servers Limited will issue, to You, account credits in the amount of 10% of the base monthly server rent for each hour after the first hour of the monthly service fee for the server in question to a maximum of 50% of the cost of the server itself (excluding any management, upgrades or additional services associated with the server in question.)

To receive a credit, You must make a request by sending an email message customer.accounts@ukservers.com. Each request in connection with this Agreement must include the dates and times of the hardware replacement situation, the name and IP address of the server or servers which experienced delayed replacement. The request must be received by UK Dedicated Servers Limited within ten (10) business days after the incident. Upon confirmation by UK Dedicated Servers Limited, credit will be applied to Your UK Dedicated Servers Limited account within thirty (30) days of receipt of Your credit request.