

## Shared Hosting Terms and Conditions

Our terms and conditions which all customers have to agree to are as follows:

Where the context admits: "We" includes Babbacombe Computers Ltd. of: 17, Boothroyd Drive, Leeds, LS6 2SL or any party acting on Babbacombe Computers's implicit instructions. "You" includes the person purchasing the Services or any party acting on the customer's instructions. "The Registrant" includes the person applying for a domain name or any party acting on the Registrant's instructions. "The Registry" the relevant domain names Registry. "Server" means the computer server equipment operated by us in connection with the provision of the Services. "Web Site" means the area on the Server allocated by us to you for use by you as a site on the Internet.

In consideration of the mutual covenants herein, the parties agree to the following, which shall apply during the term of this Agreement:

### 1. Domain Name Registrations and Transfers

1.1 We make no representation that the domain name you wish to register is capable of being registered by or for you or that it will be registered in your name. You should therefore not assume registration of your requested domain name(s) until you have been notified that it has or they have been registered. Any action taken by you before such notification is at your risk.

1.2 The registration and use of your domain name is subject to the terms and conditions of use applied by the relevant Registry; you shall ensure that you are aware of those terms and conditions and that you comply with them.

1.3 You shall have no right to bring any claim against us in respect of refusal to register a domain name.

1.4 Any administration charge paid by you to us shall be nonrefundable notwithstanding refusal by the Registry to register your desired name.

1.5 We shall have no liability in respect of the use by you of any domain name; any dispute between you and any other person must be resolved between the parties concerned in such dispute. If any such dispute arises, we shall be entitled, at our discretion and without giving any reason, to withhold, suspend or cancel the domain name. We shall also be entitled to make representations to the relevant Registry but will not be obliged to take part in any such dispute.

1.6 We shall not release any domain to another provider unless full payment for that domain has been received by us.

1.7 By registering a .uk domain name, you enter into a contract of registration with Nominet UK on the following terms and conditions (<http://www.nominet.org.uk/ref/terms.html>). This is a separate contract to any arrangement you may have with Babbacombe Computers for the provision of internet services. Please read before proceeding with your order.

1.8 Domains transferred or purchased through Babbacombe Computers that are part of an order or hosting plan do not have an outgoing transfer fee, providing any outstanding fees are paid as mentioned in 1.6

1.9 Please read our supplementary terms and conditions for any of the following domain endings: .com / .net / .org / .biz / .name / .tv – (SEE REGISTRATION AGREEMENT DOCUMENT)

2.0 For full details on the ICANN domain dispute policy please read the following document - <http://www.icann.org/dndr/udrp/policy.htm>

### 2. Web Site Hosting And Email

2.1. We make no representation and give no warranty as to the accuracy or quality of information received by any person via the Server and we shall have no liability for any loss or damage to any data stored on the Server.

2.2 You represent, undertake and warrant to us that you will use the Web Site allocated to you only for lawful purposes. In particular, you represent, warrant and undertake to us that.

2.2.1 you will not use the Server in any manner which infringes any law or regulation or which infringes the rights of any third party, nor will you authorise or permit any other person to do so.

2.2.2 you will not upload, post, link to or transmit:

(a) any material which is unlawful, threatening, abusive, malicious, defamatory, obscene, pornographic, blasphemous, profane, racist or otherwise objectionable in any way.

(b) any material containing a virus or other hostile computer program.

(c) any material which constitutes, or encourages the commission of, a criminal offence or which infringes any patent, trade mark, design right, copyright or any other intellectual property right or similar rights of any person which may subsist under the laws of any jurisdiction.

(d) any material which is forbidden by our acceptable use policy published in our acceptable use policy (see link in menu above).

2.2.3 you will not send bulk email whether opt-in or otherwise from our network. Nor will you promote a site hosted on our network using bulk email.

2.2.4 you will not employ programs which consume excessive system resources, including but not limited to processor cycles and memory.

2.2.5 any file that that is uploaded to your web disk space is for the operation and management of your web site and web application.

2.3 We reserve the right to remove any material which we deem inappropriate from your Web Site without notice to you.

2.4 You shall keep secure any identification, password and other confidential information relating to your account and shall notify us immediately of any known or suspected unauthorised use of your account or breach of security, including loss, theft or unauthorised disclosure of your password or other security information.

2.5 You shall observe the procedures which we may from time to time prescribe and shall make no use of the Server which is detrimental to our other customers.

2.6 You shall procure that all mail is sent in accordance with applicable legislation (including data protection legislation) and in a secure manner.

2.7 In the case of an individual User, you warrant that you are at least 18 years of age and if the User is a company, you warrant that the Services will not be used by anyone under the age of 18 years.

2.8 Any access to other networks connected to Babbacombe Computers must comply with the rules appropriate for those other networks.

2.9 While we will use every reasonable endeavor to ensure the integrity and security of the Server, we do not guarantee that the Server will be free from unauthorised users or hackers and we shall be under no liability for non-receipt or misrouting of email or for any other failure of email.

2.10 No more than one log-in session under any one account may be used at any time by you. If you have multiple accounts, you are limited to one login session per system account at any time.

2.11 Bandwidth / Data transfer consumption and charges

2.12 If you exceed the bandwidth limit on your hosting plan, then you will be billed automatically at a price of £15.00 for regular hosting and £10.00 for reseller hosting per additional gigabyte you consume per month. You may upgrade your account to the next available hosting plan that will have additional data transfer allowance, except for the 'Enterprise' range of hosting plans.

2.13 Incoming emails are restricted to 10MB in size on regular hosting and 30MB in size on reseller hosting per email to prevent abuse of the mail system. There is no restriction on the size of the mailbox, but we reserve the right to close down mailboxes that consume excessive system resources.

2.14 Regular Email only accounts, excluding those set up through the reseller control panel system, are all restricted to 100MB bandwidth allowance. Additional bandwidth will be charged at the same rate as other hosting plans: £15 per gigabyte per month.

2.15 We reserve the right to remove scripts that consume excessive system resources.

2.16 We reserve the right to alter the price of disk space, hosting plans, Data transfer and any of our products at any time without notice to you.

### **3. Resellers**

3.1 If you are or become a reseller of our Services you will continue to be bound by these terms and conditions, you will be responsible for ensuring that your customers are bound by terms and conditions that adequately reflect and give effect to these.

3.2 You shall not incur or purport to incur on our behalf any liability nor in any way pledge or purport to pledge our credit or to make any contract binding on us.

3.3 No default by your customers shall in any way affect, modify or limit your obligations under this Agreement.

3.4 We authorise you to sell our services under your own brand for the direct use of your clients only.

### **4. Service Availability**

4.1 We shall use our reasonable endeavors to make available to you at all times the Server and the Services but we shall not, in any event, be liable for interruptions of Service or down-time of the Server.

4.2 We shall have the right to suspend the Services at any time and for any reason, generally without notice, but if such suspension lasts or is to last for more than 7 days you will be notified of the reason.

### **5. Payment**

5.1 All charges payable by you for the Services shall be in accordance with the scale of charges and rates published from time to time by us on our web site and shall be due and payable in advance of provision of the Services.

5.2 We reserve the right to change pricing at any time although all pricing is guaranteed for the period of pre payment.

5.2 Payment is due each anniversary month, quarter or year following the date the Services were established until closure notice is given in accordance with 6.4. If you choose to pay by credit or debit card you authorise Babbacombe Computers to debit your account renewal fees and excessive charges from your card.

5.3 All payments must be in UK Pounds Sterling.

5.4 If your cheque is returned by the bank as unpaid for any reason, you will be liable for a "returned cheque" charge of £25.

5.5 Without prejudice to our other rights and remedies under this Agreement, if any sum payable is not paid on or before the due date, we shall be entitled forthwith to suspend the provision of Services to you.

### **6. Termination And Refunds**

6.1 We shall be entitled to suspend the Services and/or terminate this Agreement forthwith without notice to you If you:

6.1.1 fail to pay any sums due to us as they fall due.

6.1.2 break any of these terms and conditions.

6.1.3 are a company and you go into insolvent liquidation or suffer the appointment of an administrator or administrative receiver or enter into a voluntary arrangement with your creditors.

6.2 No refunds will be made under any circumstances for Services suspended in accordance with 6.1.

6.3 We reserve the right to suspend the Services and/or terminate this Agreement at any time. In the event of this You will be entitled to a pro rata refund based upon the remaining period of prepayment.

6.4 You may cancel the Services at any time. To do so you must request cancellation of the Services in writing including your account username and password. We will cancel the Services within 2 working days of receipt of your request.

6.5 During the first 7 days of Services, You are entitled to a refund of the basic hosting plan rental fee should You decide to cancel the Services. No full refunds or pro rata refunds will be made after the first 7 days of service should You decide to cancel the Services.

6.5.1 Domain name registration fees, charges for additional data transfer and charges for

optional extras added to your account are not refundable on this basis.

6.5.2 You will not be entitled to a refund on this basis if you have previously held an account with Babbacombe Computers.

6.6 Where payment has been made by credit or debit card, any refund will only be issued to the same credit or debit card.

6.7 On termination of this Agreement or suspension of the Services we shall be entitled immediately to stop access to your Web Site and to remove all data located on the Server.

## **7. Indemnity**

7.1 You shall indemnify us and keep us indemnified and hold us harmless from and against any breach by you of these terms of business and any claim brought against us by a third party resulting from the provision of Services by us to You and your use of the Services and the Server including, without limitation, all claims, actions, proceedings, losses, liabilities, damages, costs, expenses (including reasonable legal costs and expenses), howsoever suffered or incurred by us in consequences of your breach or non-observance of this Agreement.

## **8. Limitation Of Liability**

8.1 All conditions, terms, representations and warranties relating to the Services supplied under this Agreement, whether imposed by statute or operation of law or otherwise, that are not expressly stated in these terms and conditions including, without limitation, the implied warranty of satisfactory quality and fitness for a particular purpose are hereby excluded, subject always to subclause 8.2.

8.2 Nothing in these terms and conditions shall exclude our liability for death or personal injury resulting from our negligence.

8.3 Our total aggregate liability to you for any claim in contract, tort, negligence or otherwise arising out of or in connection with the provision of the Services shall be limited to the charges paid by you in respect of the Services which are the subject of any such claim.

8.4 In any event no claim shall be brought unless you have notified us of the claim within one year of it arising.

8.5 In no event shall we be liable to you for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.

## **9. Notices**

9.1 Any notice to be given by either party to the other may be sent by either email, fax or recorded delivery to the address of the other party as appearing in this Agreement or ancillary application forms or such other address as such party may from time to time have communicated to the other in writing, and if sent by email shall unless the contrary is proved be deemed to be received on the day it was sent or if sent by fax shall be deemed to be served on receipt of an error free transmission report, or if sent by recorded delivery shall be deemed to be served two days following the date of posting.

## **10. Law**

10.1 This Agreement shall be governed by and construed in accordance with English law and you hereby submit to the non-exclusive jurisdiction of the English courts.

## **11. Headings**

11.1 Headings are included in this Agreement for convenience only and shall not affect the construction or interpretation of this Agreement.

## **12. Entire Agreement**

12.1 These terms and conditions together with any documents expressly referred to in them, contain the entire Agreement between us relating to the subject matter covered and supersede any previous Agreements, arrangements, undertakings or proposals, written or oral: between us in relation to such matters. No oral explanation or oral information given

by any party shall alter the interpretation of these terms and conditions. In agreeing to these terms and conditions, you have not relied on any representation other than those expressly stated in these terms and conditions and you agree that you shall have no remedy in respect of any misrepresentation which has not been made expressly in this Agreement. We reserve the right to alter these Terms & Conditions and our Acceptable User Policy without consent or agreement from our customers.