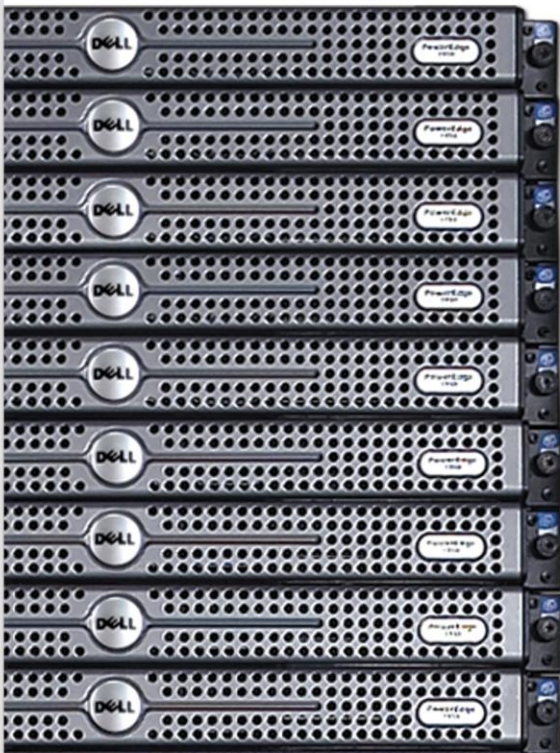


Secura Hosting Ltd Terms & Conditions

Terms & Conditions

Version: 2.00

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Introduction

Secura Hosting Ltd agrees to supply the services (collectively, the "Services") as described in the Order Form(s) submitted by you and accepted by Secura Hosting Ltd, subject to the following Terms and Conditions (this "Agreement") and Secura Hosting Ltd Acceptable Use Policy ("AUP").

You must register and accept the terms of this Agreement and the AUP in order to use the Services. Registering for and using the services supplied by Secura Hosting Ltd, constitutes acceptance and agreement to all terms and conditions contained within this Agreement and the AUP.

The terms and conditions contained in this Agreement and the AUP may be changed from time to time at the discretion of Secura Hosting Ltd. Any changes are effective from the time of posting such revisions on the Secura Hosting Ltd web site. Your continued use of the Services following Secura Hosting Ltd posting of any such changes constitutes your acceptance of the changes and shall not be grounds for early contract termination or non-payment. If you do not agree to the terms of any change, do not continue to use the services and immediately notify Secura Hosting Ltd of your termination of this Agreement as outlined in Section 1.2 below.

1. Term and Termination of Agreement

1.1 Term

This Agreement will be for a "Term" of 12 months, unless specified otherwise in the Service Order document, from the date the Services are first provided by Secura Hosting Ltd. This Agreement will be automatically renewed (the "Renewal Term") at the end of the Initial Term or any Renewal Term for a period equal to the initial "Term" unless you provide Secura Hosting Ltd with written notice of termination at least 30 days before the end of the Initial Term or Renewal Term, whichever is then applicable. To provide your notice of termination, you must contact the accounts department.

1.2 Termination

This Agreement may be terminated:

- (i) by you or Secura Hosting Ltd during any Renewal Term, without cause, by giving the other party 30 days prior written notice; (also see 1.3 Renewals and Cancellations)
- (ii) by Secura Hosting Ltd in the event of non-payment by you as provided in Section 2.4 below; and
- (iii) by Secura Hosting Ltd, at any time, without notice, if, in Secura Hosting Ltd sole judgment, you are in violation of any terms or conditions.
- (iv) by Secura Hosting Ltd, at any time, without notice, if, in Secura Hosting Ltd sole judgment, you are in violation of the AUP.

If you terminate this Agreement, or if Secura Hosting Ltd terminates this Agreement for your breach, before the end of the Initial Term or the Renewal Term, whichever is then applicable, you will be required to pay immediately all fees and costs accrued before the termination date, all monthly recurring fees for each month remaining in the term and any other amounts you owe to Secura Hosting Ltd under this Agreement.

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1.3 Renewals and Cancellations

Contracts will not commence until all setup fees and initial monthly costs are settled in advance.

The term shall begin on the Commencement Date and shall remain in effect until the expiration of the period so specified. Upon the expiration of the initial term, the contract will renew for another full term (This Agreement will be for a "Term" of 12 months, unless specified otherwise in the Service Order document, from the date the Services are first provided by Secura Hosting Ltd), unless terminated by either party upon at least thirty (30) days written notice prior to the end of such Term.

At the end of the 30 day notice period if any of the services are still in use by the customer then the contract will automatically renew for a standard 12 month term. It is therefore the customer's responsibility to ensure that no services remain in use after the end of the 30 day notice period, which includes but is not limited to use of co-location space or power, use of dedicated servers, use of email services and use of any other services included within the order form or Service Order document.

2. Payment for Services

2.1 Service Charges

You agree to the services supplied and are aware of the initial rates and charges. You are responsible for paying all taxes assessed with respect to the Services supplied, other than taxes based on Secura Hosting Ltd net income. You are aware that Secura Hosting Ltd may prospectively change the specified rates and charges from time to time. Any promotional offers are dependent upon Secura Hosting Ltd achieving and maintaining its cost of service goals including but not limited to rates charged to Secura Hosting Ltd by its suppliers.

We may at any time vary any of the Charges in accordance with the terms of clause 6.7.

2.2 Payment

Establishment of this Service is dependent upon receipt by Secura Hosting Ltd of all charges for the first month of Service being paid in advance on the first day of the Initial Term. You will pay all subsequent charges for Services in advance on the anniversary day of each month according to the then current price for the Services. All accounts and services provided by Secura Hosting Ltd are subject to the current prevailing VAT rate for any service purchases inside the European Union, all other services purchased outside the European Union may not* be liable for VAT. The above applies to all accounts and Services provided by Secura Hosting Ltd.

* Proof of residency outside of the European Union will be required in the case of individuals. In the case of businesses, you will need to supply evidence that your company is headquartered outside of the bounds of the European Union. In all cases, the decision of Secura Hosting Ltd is final in this regard.

2.3 Refunds and Disputes

All payments to Secura Hosting Ltd are non-refundable. This includes the one time set-up fee and subsequent charges regardless of usage. All overcharges or billing disputes must be reported within 30 days of the time the dispute occurred. If you dispute a charge to your credit card issuer that, in Secura Hosting Ltd sole discretion is a valid charge under the provisions of this Agreement and/or AUP, you agree to pay Secura Hosting Ltd an "Administration Fee" of not less than £25 GBP and limited to no more than £100 GBP.

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2.4 Failure to Pay

Your failure to make full payment for Services on the applicable due date is a material breach of this Agreement, justifying Secura Hosting Ltd to suspend its service and terminate this Agreement. Such suspension of Service or termination of Agreement for your material breach, will not relieve you from the immediate responsibility of paying all fees and costs accrued before the termination date, all monthly recurring fees for each month remaining in the term and any other amounts you owe to Secura Hosting Ltd under this Agreement, including all costs Secura Hosting Ltd incurs in enforcing collection, including all reasonable legal costs and collection agency fees. Secura Hosting reserve the right to charge interest on overdue accounts at rate of 7% above the base lending rate of HSBC Bank plc until payment is made in full. Reinstatement of Services by Secura Hosting Ltd will incur a £100 fee per server or service, in addition to full payment of the balance due on the account.

2.4.1 Economic Loss

The Customer grants Secura Hosting Ltd a lien over Customer Equipment to secure all sums due, owing or incurred to Secura Hosting Ltd under this Agreement and such lien shall continue and Secura Hosting Ltd shall be entitled to retain possession of all Equipment (and the Customer shall not be entitled to remove the Equipment from the Property) until Secura Hosting Ltd has received all such sums in cleared funds. If after a period of 30 days following account termination, monies are still owed by the customer, Secura Hosting reserve the right to dispose of the Equipment in order to satisfy the debt.

2.5 Account Cancellation

Requests for cancellation of accounts must be made in writing with at least 30 days prior notice. You will be required to pay immediately all fees and costs accrued before the requested cancellation date, all monthly recurring fees for each month remaining in the term and any other amounts you owe to Secura Hosting Ltd under this Agreement.

3. Use of Services

3.1 Acceptable Use Policies

The AUP governs the general policies and procedures for use of the Services. The AUP may be updated from time to time. In using the Services, you agree to be bound by the terms of the AUP and any modifications to the terms. Secura Hosting Ltd may terminate your account without notice for any violation of the AUP or this Agreement.

3.2 IP Addresses

Secura Hosting Ltd will maintain and control ownership of all Internet protocol ("IP") numbers and addresses that Secura Hosting Ltd may assign to you. You shall have no right to use IP Addresses supplied by Secura Hosting Ltd except as permitted by Secura Hosting Ltd in its sole discretion in connection with the Services, during the term of this Agreement. Secura Hosting Ltd may, in its sole discretion, change or remove any and all IP numbers and addresses. Secura Hosting Ltd requires the usage of allocated IP addresses to be in accordance with current [RIPE](#) recommendations.

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3.3 Bandwidth Usage

Secura Hosting Ltd will monitor your bandwidth usage. Secura Hosting Ltd shall have the right to take corrective action if your bandwidth usage exceeds the Agreed Usage. Such corrective action may include the assessment of additional charges, disconnection or discontinuance of any and all Services, or termination of this Agreement, which actions may be taken is in Secura Hosting Ltd sole and absolute discretion. If Secura Hosting Ltd takes any corrective action under this section, you shall not be entitled to a refund of any fees paid in advance prior to such action. In the event that you exceed the included allocation, you will be charged separately as outlined in your original Order Form against your credit card (or other billing method) on file with Secura Hosting Ltd.

3.4 Software Updates and Patches

Secura Hosting Ltd takes security extremely seriously. By default all Secura Hosting Ltd servers are configured to check and install the latest critical OS software updates from Microsoft at regular intervals during the day and will reboot the server if necessary at a pre-specified time. You may request a change in this time but it is a breach of the Secura Hosting Ltd Terms and Conditions to disable this feature. If Secura Hosting Ltd find that this feature has been disabled, your servers/s will immediately be removed from the network.

3.5 Administrative Access to Servers

Dedicated server clients have full administrative access to Secura Hosting Ltd dedicated servers. Clients may, at any time, change the administrative password, but agree to inform Secura Hosting Ltd of any change in advance of doing so. If at any time, Secura Hosting Ltd cannot access a server using the administrative username / password that we have on file, we may immediately remove the server from the network (without notice).

3.6 SPAM and Unsolicited Commercial Email (UCE)

Secura Hosting Ltd takes a zero tolerance approach to the sending of UCE or SPAM over our network. This means that you may not use or permit others to use the Secura Hosting Ltd network to transact in UCE. You may not host, or permit hosting of, sites or information that is advertised by UCE from other networks. Violations of this policy carry severe penalties, including termination of Service.

Violation of Secura Hosting Ltd's SPAM policy will result in severe penalties. Upon notification of an alleged violation of our SPAM policy, Secura Hosting Ltd will initiate an immediate investigation (within 48 hours of notification). During the investigation, Secura Hosting Ltd may restrict customer access to the network to prevent further violations. If a customer is found to be in violation of our SPAM policy, Secura Hosting Ltd may, at its sole discretion, restrict, suspend or terminate customer's account. Further, Secura Hosting Ltd reserves the right to pursue civil remedies for any costs associated with the investigation of a substantiated policy violation. Secura Hosting Ltd will notify the Police or other law enforcement agencies if the violation is believed to be a criminal offence.

First violations of this policy will result in an "Administrative Fee" of £250 and your account will be reviewed for possible immediate termination. A second violation will result in an "Administrative Fee" of £500 and immediate termination of your account. Users who violate this policy agree that in addition to these "Administrative" penalties, they will pay "Research Fees" not to exceed £175 per hour that Secura Hosting Ltd personnel must spend to investigate the matter.

If any Secura Hosting Ltd IP addresses are found to be listed in any of the various Spam Databases / blacklists, it is the customer's responsibility to get the address removed from the database / blacklist. Failure to do so may result in removal of the server from the network and termination of your hosting account without notice.

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As you are ultimately responsible for the actions of your clients over the Secura Hosting Ltd network, it is advisable that you develop a similar, or stricter, policy for your clients.

3.7 Intellectual Property Rights

You warrant, represent, and covenant to Secura Hosting Ltd that:

- (a) you are at least 18 years of age if an individual,
- (b) you possess the legal right and ability to enter into this Agreement;
- (c) you will use the Services only for lawful purposes and in accordance with this Agreement and all applicable policies and guidelines, including the AUP; and
- (d) your content does not and will not infringe or violate any right of any third party (including any intellectual property rights) or violate any applicable law, regulation or ordinance.

Secura Hosting Ltd may provide you access to other third party software and/or services (" Third Party Products ") through reseller relationships that Secura Hosting Ltd has established with certain commercial vendors ("Third Party Vendors"), including without limitation, Microsoft Corporation, WebHost Automation Ltd, etc. Unless otherwise notified, you understand that product support (if supplied at all **) for Third Party Products is provided by the Third Party Vendor and not Secura Hosting Ltd. Neither Secura Hosting Ltd nor any Third Party Vendor makes any representations or warranties, express or implied, regarding any Third Party Products. You expressly acknowledge and agree that use of Third Party Products are at your sole risk and such Third Party Products are provided "as is" and without representation or warranty of any kind from Secura Hosting Ltd or any Third Party Vendor, including without limitation, any implied warranty of merchantability, fitness for a particular purpose, lack of viruses, accuracy or completeness of responses or results, correspondence to description, or non-infringement of third party rights. To the maximum extent permitted by applicable law, neither Secura Hosting Ltd nor any Third Party Vendor will be legally responsible for any damages, whether direct, indirect, or consequential, arising from the use or inability to use any Third Party Products. You agree to observe the terms of any license and/or applicable end user subscriber agreement for Third Party Products and that you shall be fully liable to Third Party Vendor and Secura Hosting Ltd with respect to any improper use of such Third Party Products or violation of license agreements with them and/or applicable end user subscriber agreements.

You shall not remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on any Third Party Product or that appear during use of any Third Party Product. You further agree not to reverse engineer, decompile, or disassemble any Third Party Product.

** Please Note: Microsoft do NOT provide support for any software, operating system, or service supplied via Secura Hosting Ltd under the terms of our Microsoft Service Provider Agreement.

3.8 Notification of Violation

Secura Hosting Ltd is under no duty to look at yours or any other user's activities to determine if a violation of the AUP has occurred, nor do we assume any responsibility through our AUP to monitor or police Internet-related activities. However we do reserve the right to full administrative access to any server owned, operated or managed by Secura Hosting Ltd.

First violation: In the event that Secura Hosting Ltd determines that you have violated any element of the AUP, you will receive an email warning of the violation. The Service may be subject at Secura Hosting Ltd discretion to a temporary suspension pending your agreement in writing, to refrain from any further violations.

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Second Violation: In the event that Secura Hosting Ltd determines that you have committed a second violation of any element of the AUP, you shall be subject to immediate suspension or termination of service without further notice.

We reserve the right to drop the section of IP space involved in Spam or Denial-of-Service complaints if it is clear that the offending activity is causing great harm to parties on the Internet. In particular, if open relays are on your network or any parties network, or if denial of service attacks are originating from your network. In certain rare cases, we may have to do this before attempting to contact you. If we do this, we will contact you as soon as is feasible.

Secura Hosting Ltd reserves the right to charge you at our standard hourly rate of £100 GBP for investigations into and notification of violation of the AUP or these Terms.

3.9 Suspension or Cancellation of Service

Secura Hosting Ltd reserves the right to suspend or cancel your network access if in the judgment of the Secura Hosting Ltd network administrators your server is the source or target of the violation of any of the other terms of the AUP or for any other reason which Secura Hosting Ltd chooses. If inappropriate activity is detected, all your accounts in question will be deactivated until an investigation is complete. Providing you with prior notification is not assured. In extreme cases, the Police or other law enforcement agencies will be contacted regarding the activity. You will not be credited for the time your servers/services were suspended.

Secura Hosting Ltd reserves the right to amend its policies at any time. All Sub-Networks, resellers and managed servers of Secura Hosting Ltd must adhere to the above policies. Failure to follow any term or condition will be grounds for immediate Cancellation. As you will be held responsible for the actions of your clients in the matter described on these Terms and conditions, it is in your best interest to implement a similar or stricter Terms and conditions or otherwise called Acceptable Terms of use policy.

3.10 Disclosure Rights

The AUP specifically prohibits the use of our Service for illegal activities. Therefore, you agree that Secura Hosting Ltd may disclose any and all of your information including assigned IP addresses, account history, account use, etc. to any law enforcement officer or agency that makes a written request without further consent or notification to you. In addition, Secura Hosting Ltd shall have the right to terminate all service set forth in this Agreement.

3.11 Disclaimed Warranties

Secura Hosting Ltd exercises no control over, and accepts no responsibility for, the content of the information passing through Secura Hosting Ltd host computers, network switches and points of presence, or the Internet. Use of the Services or any information that may be obtained from the services is at your own risk. All Services performed under this agreement are performed "as is" and without warranty against failure of performance including, any failure because of computer hardware or communication systems. Secura Hosting Ltd does not make and disclaims, and you waive all reliance on, any representations or warranties, arising by law or otherwise, regarding the Services, including implied warranties of merchantability, fitness for a particular purpose, non-infringement, or arising from course of dealing, course of performance or usage in trade. Secura Hosting Ltd does not warrant that the Services will be uninterrupted, error-free, or completely secure.

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3.12 Private LAN / Backup LAN

Where provided for in the Service Order, Secura Hosting Ltd provides a Public LAN (Local Area Network) and a Private LAN for customer use. All customer traffic on the Public LAN is billable and constitutes "Bandwidth Usage" as per 3.3 regardless of whether or not it is inter-server traffic, backup traffic or any other kind of network traffic, whereas all customer traffic on the private LAN is free of charge. Service Level Agreements (SLA's) where provided for in the Service Order, apply to the public LAN only and do not apply to any Private LAN or Private LAN segment or Network Interface. The private LAN is provided merely as a courtesy to our customers and is designed for inter server traffic only or backup traffic only. The private LAN should no therefore be considered as business critical network infrastructure.

3.13 Managed Backups

Secura Hosting Ltd does not backup customer data unless backup services are specifically provided for in the Service Order. Where backups are provided, Secura Hosting Ltd does not provide any warranty or a Service Level Agreement (SLA) for backup services. Secura Hosting Ltd will make every effort to ensure that customer data is backed up as defined in the Service Order and will carry out regular restore tests on random customer datasets but the customer acknowledges it is not possible for Secura Hosting Ltd to guarantee that all files and folders specified will be backed up and therefore restorable. The customer acknowledges that it is the customers sole responsibility to ensure that their data is suitably backed up.

3.14 Advice and Consultancy

If consultancy quoted for includes a site visit, travel expenses by train or taxi may be added without notice to you. Advice given by Secura Hosting Ltd without cost to you will incur no liability for Secura Hosting Ltd nor will Secura Hosting Ltd accept any liability for suppliers Secura Hosting Ltd staff recommend.

4. Limitation and Exclusion of Liability

4.1 Limitations

In no event shall Secura Hosting Ltd or its suppliers have any liability for unauthorized access to, or alteration, theft or destruction of information distributed or made available for distribution via the services through accident, fraudulent means or devices. Neither Secura Hosting Ltd nor its suppliers will have liability with respect to Secura Hosting Ltd obligations under this agreement, or otherwise for consequential, exemplary, special, incidental, or punitive damages even if Secura Hosting Ltd has been advised of the possibility of these damages. The liability of Secura Hosting Ltd and its suppliers to you for any reason and upon any cause of action is limited to the amount you actually paid to Secura Hosting Ltd under this agreement during the 3 months immediately preceding the date on which the claim accrued. This limitation applies to all causes of action in the aggregate, including breach of contract, breach of warranty, negligence, strict liability, misrepresentations, and other torts. The fees for the services set by Secura Hosting Ltd under this agreement have been and will continue to be based upon this allocation of risk. Accordingly, you release Secura Hosting Ltd and its suppliers from any and all obligations, liabilities, and claims in excess of the limitation stated in this section.

4.2 Interruption of Service

Secura Hosting Ltd are not liable for any interruption of service or failure to perform its obligations under this Agreement which results from any act of God or other cause beyond its reasonable control (including, any mechanical, electronic, communications or third-party supplier failure).

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4.3 Indemnification

In agreeing to the Secura Hosting Ltd AUP and this Agreement, you agree to indemnify, defend and hold harmless Secura Hosting Ltd, its employees, directors, partners, representatives and affiliates, for any violation by you or your clients of the Secura Hosting Ltd AUP or this Agreement that results either in loss to Secura Hosting Ltd or the bringing of any claim against Secura Hosting Ltd by any third-party. An example would be if Secura Hosting Ltd were sued because of your or your customer's activity related to the Services, you would pay any damages awarded against Secura Hosting Ltd, its employees, directors, partners, representatives and affiliates, plus all costs and attorney's fees.

4.4 Licencing Indemnification

Where Secura Hosting Ltd procures licences from 3rd party suppliers (for software, firmware or other type of licences) on behalf of a customer the customer has an obligation to ensure they are entitled to acquire such licences. It is the customer's responsibility to inform Secura Hosting Ltd should the customer no longer be eligible for such licences. The customer agrees to indemnify and hold Secura Hosting Ltd, its subsidiaries, employees, agents, officers, directors, and contractors (the "Indemnified Parties") harmless from any breach of the License by the you other than as expressly authorized in these Terms of Use. You agree that the Indemnified Parties will have no liability in connection with any such breach or unauthorized use, and you agree to indemnify any and all resulting loss, damages, judgments, awards, costs, expenses, and attorneys' fees of the Indemnified Parties in connection therewith. You will also indemnify and hold the Indemnified Parties harmless from and against any claims brought by third parties arising out of your use of the licences.

4.5 Insurance

Insurance of your Servers against fire or theft is not included for Servers that are not owned by Secura Hosting Ltd. For this reason colocation customers are advised to purchase their own separate insurance cover. Secura Hosting Ltd take no responsibility for loss or damage of any kind to customer equipment, however we do have insurance covering damage to customer equipment caused by our own staff.

5. Data Protection

5.1 General

All information, mail messages and other data stored on the Secura Hosting Ltd computer system will be treated as private and solely your property at all times and will not be duplicated, copied, reproduced or viewed publicly in any way except with your express or implied permission and/or providing you with the Services and/or for Secura Hosting Ltd own internal purposes such as market research.

5.2 Risks

Secura Hosting Ltd expressly points out that by entering into this Agreement you acknowledge and agree that once your unencrypted data passes onto the Internet, it is not secure and is open to unscrupulous use. Secura Hosting Ltd cannot accept responsibility or liability for any data or information that becomes available by such means against your wishes and Secura Hosting Ltd recommends the use of encryption for transfer of sensitive data or information.

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6. General

6.1 Contact Details

You must provide Secura Hosting Ltd with, and keep current, up to date contact information for you. E-mail, fax, and telephone contacts are used, in that order of preference.

6.2 Waivers

A waiver by Secura Hosting Ltd of any breach of any provision of this Agreement by you shall not operate as or be construed as a continuing or subsequent waiver thereof or as a waiver of any breach of any other provision thereof.

6.3 Rights of Transfer

You shall not transfer or assign this Agreement without the prior written consent of Secura Hosting Ltd. Secura Hosting Ltd may assign this Agreement at anytime without your prior consent or notice. Secura Hosting Ltd reserves the right to cancel your rights under this contract at anytime without further obligation.

6.4 Responsibility and Links

Secura Hosting Ltd takes no responsibility for any material input by others and not posted to the Secura Hosting Ltd Network by Secura Hosting Ltd. Secura Hosting Ltd is not responsible for the content of any other websites linked to the Secura Hosting Ltd Network; links are provided as Internet navigation tools only. Secura Hosting Ltd disclaims any responsibility for any such inappropriate use and any liability to any person or party for any other person or party's violation of this policy.

6.5 Warranties

Secura Hosting Ltd is not responsible for any damages your business may suffer. Secura Hosting Ltd does not make implied or written warranties for any of our services. Secura Hosting Ltd denies any warranty or merchantability for a specific purpose. This includes loss of data resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions caused by Secura Hosting Ltd.

6.6 Adult Material and other Forbidden Services.

It is absolutely forbidden to host pornographic content or IRC servers. Customers found hosting this material will be subject to immediate cancellation without refund.

6.7 Your Responsibilities

You are solely responsible for the content stored on and served by your Secura Hosting Ltd server.

6.8 Variation

We reserve the right to amend the provisions of the Agreement at any time. If we do so, we shall display a notice on our website for a period of thirty days prior to the amendment coming into effect, informing you of the amendment and the date on which is to come into force, and will notify you by e-mail if the amendment affects the type of Service to which you subscribe. Your continued use of the Service after any such amendment has come into effect shall be deemed to be your binding acceptance of such amendment.

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6.9 Force Majeure

Secura Hosting Ltd shall not be liable to the customer whatsoever if it is unable to perform any of its obligations under its terms due to any cause beyond its reasonable control including but not limited to acts of God, war or national emergency, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs (whether or not by that party), strikes and other industrial disputes (in each case, whether or not relating to that party's workforce), acts of Government, highway authorities, telecommunications network operators or other competent authorities or interruption of, or inability in obtaining, supplies or services from third parties.

6.10 Assignment

The Customer may not assign, delegate or otherwise deal with any of its rights or obligations under their agreement with Secura Hosting Ltd without the prior written consent of Secura Hosting Ltd; such consent not to be unreasonably withheld. Secura Hosting Ltd shall be entitled to assign its rights and obligations under these terms and as it sees fit.

7. Survival of Agreement

7.1 Survival of Agreement

All provisions of this Agreement relating to your warranties, intellectual property rights, limitation and exclusion of liability, your indemnification obligations and payment obligations will survive the termination or expiration of this Agreement.