



## *Rich Pyke Computer Services*

Please read these Terms and Conditions carefully. You are required to read and understand them before instructing Rich Pyke Computer Services. If you do not accept these terms please do not use the services provided.

Where the context admits: "Me" or "I" includes Rich Pyke Computer Services whose registered office is 169 Mandarin Way, Cheltenham, Gloucestershire, GL50 4RT, United Kingdom or any party acting on my 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" includes the relevant domain names Registry. "Services" include any product or service sold (or provided at no cost) to you by me. "Server" means the computer server equipment operated by me in connection with the provision of the Services. "Account" means any one or more Services, assigned solely to you. This typically consists of (but is not limited to) Web Hosting Provision and Domain Name Registration. A "User" is defined as a Customer using any or my products and services. "Web Site" means the area on the Server allocated by me to you for use by you as a site on the Internet.

### **1. General**

1. By ordering Services you are agreeing to these Terms & Conditions.
2. I reserve the right to update these Terms and Conditions at any time without notice.
3. Should you wish to cancel your Account, send an email to rich@richpyke.net. Refunds will only be given if this is received before any domain name has been passed to the Registry. Where this is not the case, any outstanding payment must still be made in full.
4. Refunds will be given at my discretion.
5. Handling complaints: Should you have any complaints regarding Services received from me, please send an email to rich@richpyke.net detailing the nature of your complaint. I will acknowledge the complaint within 5 working days and provide a likely timescale for resolving the dispute while keeping you informed about progress. All complaints will be considered highly confidential, and be dealt with as soon as is possible.
6. I reserve the right to cancel your Account at any time, for any reason (or no reason) without notice.
7. You agree to keep me up to date with any changes in your contact details. This includes the provision of a working email address that you regularly check.
8. Nothing in these Terms and Conditions shall operate to exclude or limit my liability for (a) death or personal injury caused by my negligence; or (b) any breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the supply of Goods and Services Act 1982; or (c) fraud; or (d) any other liability which cannot be excluded or limited under applicable law.
9. Subject to 8 immediately above, I will not be held liable or responsible for any direct or indirect loss or damages to your business or that of any third party.
10. Subject to 8 and 9 immediately above, my liability shall in no circumstances exceed the total sums paid to me by you under the relevant contract.

### **2. Domain Name Registration**

1. I 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



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therefore not assume registration of your requested domain name until you have been notified by me that it has been successfully registered. Any action taken by you before such notification is at your risk. I have no influence over the decisions taken by the Registry.

2. You understand that I am acting as your agent with regard any domain registration. The registration and use of your domain name is therefore subject to the terms and conditions of use applied by the relevant naming authority; you shall ensure that you are aware of those terms and conditions and that you comply with them. Nominet (for .uk domains) and Enom (for global domains) are the two most common naming authorities used by me. You shall have no right to bring any claim against me in respect of refusal to register a domain name. Any administration charge paid by you to me shall be non-refundable notwithstanding refusal by the Registry to register your desired name.
3. I 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, I shall be entitled, at my discretion and without giving any reason, to withhold, suspend or cancel the domain name. I shall also be entitled to make representations to the relevant Registry but will not be obliged to take part in any such dispute.
4. You understand that I give no warranty that any Domain Name requested will not infringe the rights of any third party and that you indemnify me in respect of any such infringements.
5. I shall not transfer any domain to another Internet Services Provider unless full payment for that domain (and/or any associated services) has been received by me for the current term during which you wish to transfer.
6. While I shall make reasonable efforts to contact you (by email) in advance of any domain name (or account) Renewal date, ultimately you have full responsibility for ensuring the renewal of your domain name and or Account. You understand that failing to ensure such a renewal may result in the loss of your domain name.
7. Customers are responsible for ensuring any domain transfer to or from me is successfully completed. Failing to do so may result in the loss of your domain, or being subject to further fees from your previous host/registrar.
8. You understand that by requesting cancellation of a domain name at any time, you may be subject to the loss of that domain, extended downtime, or further re-activation fees from the registrar.
9. My included Domain Name Package (Web Forwarding and Email facilities etc.) is subject to a 100MB Web space and 100MB Data Transfer (Bandwidth) Limit. Customers consistently using more than the stated quotas will be asked to move to a fully Hosted account.

### **3. Web Site Hosting And Email**

1. Commercial hosting is provided by me through third party servers and network providers. In the event of any problem, I will use all reasonable endeavours to provide alternative hosting facilities as soon as possible but can accept no liability for any loss accruing to the customer as a result of any downtime experienced or loss of service.



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2. I make no representation and give no warranty as to the accuracy or quality of information received by any person via the Server and I shall have no liability for any loss or damage to any data stored on the Server.
3. You shall effect and maintain adequate insurance cover in respect of any loss or damage to data stored on the Server.
4. You represent, undertake and warrant to me that you will use the Web Site allocated to you only for lawful purposes. In particular, you represent, warrant and undertake to me that:
  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. You will not use Services for anything which is contrary to any legislation or statutory instrument which may be in force from time to time.
  3. You will not post, link to or transmit:
    1. any material which is unlawful, threatening, abusive, malicious, defamatory, obscene, pornographic, blasphemous, profane or otherwise objectionable in any way.
    2. any material containing a virus or other hostile computer program.
    3. 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. At all times, the assessment as to whether the content is suitable or unsuitable, remains entirely at the discretion of Rich Pyke Computer Services.
  4. Unless Your Account is a "Hosting Account" (i.e.: not simply a Domain and Forwarding account) you will not send bulk email whether opt-in or otherwise from my network. Nor will you promote a Web Site hosted on my network using bulk email. If you are unsure if this applies to your account, you should seek confirmation from me.
  5. You will not employ programs which consume excessive system resources, including but not limited to processor cycles, data transfer and memory use.
  6. Any file you store on the Server will be reachable via a hyperlink from a page on your site. Only files directly related to your Web Site must be stored on the Server. You will not 'archive' files, the definition of which is solely defined by me.
5. I reserve the right to remove any material which I deem inappropriate from your Web Site without notice. I do not host Warez, Adult or illegal MP3 content.
6. The Hosting of mp3 files, digital video, or any other self created media is allowed so long as you are the sole copyright holder of such works or a licensee with all applicable permissions and consents from the copyright holder and any third parties required for such hosting.
7. You shall keep secure any identification, password and other confidential information relating to your Account and shall notify me 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.



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8. You shall observe the procedures which I may from time to time prescribe and shall make no use of the Server which is detrimental to my other customers.
9. You shall procure that all email is sent in accordance with applicable legislation (including data protection legislation) and in a secure manner.
10. 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.
11. Any access to other networks connected to mine must comply with the rules appropriate for those other networks.
12. While I will use every reasonable endeavour to ensure the integrity and security of the Server, I do not guarantee that the Server will be free from unauthorised users or hackers and I shall be under no liability for non-receipt or misrouting of email or for any other failure of email.
13. You must abide by my Acceptable Use Policy.
14. You must read and understand my Hosting Support Policy.
15. I shall not be held responsible in the event of any file loss resulting from the failure of any of the Servers or Services I operate (this includes my Remote Backup Service). While I do perform regular server backups as part of my own internal maintenance, I may impose a charge to restore data at a customer's request, depending on the level of work involved in doing so. It is therefore strongly advised to backup all of your files locally on a regular basis depending on how often you update your Web Site.
16. I reserve the right to require changes or disable as necessary any web site, account, database, or other component that does not comply with these terms, at my sole discretion and without notice. I also reserve the right to make any such modifications in an emergency at my sole discretion.
17. I make no guarantee that third-party software will run on the servers I operate.

#### **4. Resellers**

1. If you are or become a reseller of my 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.
2. You shall not incur or purport to incur on my behalf any liability nor in any way pledge or purport to pledge my credit or to make any contract binding on me.
3. No default by your customers shall in any way affect, modify or limit your obligations under this Agreement.
4. I authorise you to sell my services under your own brand for the direct use of your clients only. You may not permit your clients to resell the services you provide.
5. You understand that as a reseller, you are the individual solely responsible for all use of the account.
6. Unlimited Domains Policy: As a reseller, you are entitled to host as many domains as you require on your Account. This is subject to the domains being Registered through Me. Should the domains be registered via a third-party, then your Account will be subject to a maximum of 500 domains.
7. Reseller Domain Prices: As a reseller, you are entitled to register domains with me at a discounted price. This entitlement should not be used in conjunction with any other available special offer or discount scheme. This includes any Affiliate Programme.



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### **5. Service Availability**

1. I shall use my reasonable endeavours to make available to you at all times the Server and the Services but I shall not, in any event, be liable for interruptions of Service or down-time of the Server beyond that agreed within my SLA (below).
2. I shall have the right to suspend Services at any time and for any reason, generally without notice.
3. 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; user programs may be run only during log-in sessions. If your Account shows other activity in breach of this sub clause, I shall have the right to terminate any Services immediately.

### **6. Service Level Agreement (SLA)**

1. My SLA only applies to my range of Hosting Accounts.
2. I guarantee a 99% network uptime. When one or more network outage causes in excess of 7.2 Hours network downtime within any calendar month, you are entitled to a rebate equal to the value of one calendar month of account charges. You may only claim one outage per calendar month.
3. The account making the claim must be up to date on all payments and in compliance with all terms of the contract.
4. Any "Network Outage" does not include:
  - 1.Planned outages
  - 2.Partial outages of less than 60 continuous minutes or degradation of service due to high packet loss or similar conditions, which may be indicative of the Internet as a whole.
  - 3.Outages caused by any networks or network equipment not owned or controlled by me.
5. SLA claims must be submitted to rich@richpyke.net within 48 hours of the event which caused the outage, and include full details (and proof if available) of the outage experienced.

### **7. Payment**

1. All charges payable by you for Services shall be in accordance with the scale of charges, rates and payment frequencies published from time to time by me on my web site and shall be due and payable in advance of my Service provision. I reserve the right to change pricing at any time although all pricing is guaranteed for the period of pre-payment.
2. All renewals will be made on my Terms & Conditions & Prices current at the time of the renewal. While I will attempt to contact you prior to renewal date, you are responsible for ensuring all payments by due date.
3. All payments must be in UK Pounds Sterling.
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. Without prejudice to my other rights and remedies under these Terms and Conditions, if any sum payable is not paid on or before the due date, I shall be entitled forthwith to suspend or cancel the provision of Services to you.
6. Late payments will incur recovery fees and interest as set out in the Late Payment of Commercial Debts (Interest) Act.



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Interest is claimed at 8% over the Bank of England's base rate (or "repo" rate) and calculated daily. Recovery fees are as follows;

Up to £999.99 the recovery fee is £40.00

£1,000 to £9,999.99 the recovery fee is £70.00

£10,000 and above the recovery fee is £100.00

### **8. Money Back Guarantee**

1. Each Hosting Account includes a full 14-day money back guarantee.
2. If you are not completely satisfied with my services within the refund time period specified, you will be given a full refund of the amount paid excluding overages. No refund is available after that period. This guarantee does not apply to any additional services such as overages, disk space, bandwidth, maintenance fees, or any fees paid as a result of Domain Name Registration.
3. Accounts cancelled/terminated by me for violating my Terms and Conditions or Acceptable Usage Policy do not qualify for the 14-day money back guarantee. Only first-time accounts are eligible for a refund.

### **9. Termination**

1. If you fail to pay any sums due to me as they fall due, I may suspend or cancel any Services without notice to you. Accounts are typically suspended immediately, and fully cancelled after a further twenty one days.
2. If you breach any of these terms and conditions I may suspend or cancel any Services without notice to you.
3. If you 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 or any analogous event, I shall be entitled to suspend or cancel any Services without notice to you.
4. No refunds will be made for Services suspended in accordance with 1, 2 and 3.
5. I reserve the right to suspend Services at any time. In the event of this you will be entitled to a pro-rata refund based upon the remaining period of pre-payment. This does not include any fees in connection with Domain Registration.
6. Where payment has been made by credit or debit card, any refund will only be issued to the same credit or debit card. All credit and debit card refunds are subject to a 10% administration fee against the original purchase price.
7. You may cancel the Services at any time without refund.
8. I will be entitled to block your Web Site and to remove all data where termination or suspension has occurred, no matter how that termination or suspension has occurred.

### **10. Indemnification**

1. You agree that You shall defend, indemnify, save and hold Me harmless from any and all demands, liabilities, losses, costs and claims, including reasonable attorney's fees asserted against me, my agents, officers, employees and assignees, that may arise or result from any service provided or performed or agreed to be performed or any product sold. You agree to defend, indemnify and hold harmless Rich Pyke Computer Services against liabilities arising out of; (1) any injury to person or property caused by any products or services sold or otherwise distributed in connection with servers operated by me; (2) any material supplied or hosted by customers on this website (including content infringing or allegedly infringing on the



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proprietary rights of a third party); (3) copyright infringement and (4) any defective products sold to customers from servers operated by me.

### **11. Disclaimer**

I will not be responsible for any damages your business may suffer. This includes loss of data resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions caused by me or any third party acting on my behalf. I expressly disclaim all and provide no representations or warranties in respect of this website, its contents or the services provided by me. I do not represent or warrant that the information accessible on or via this website is accurate, complete or current.

I am a company operating under the requirements of the Data Protection Act 1998. Ownership of this Web Site belongs to and remains at all times, the sole property of Rich Pyke Computer Services. The reproduction, modification, permanent storage, or retransmission of the contents of this Web Site is strictly prohibited without the prior written consent of Rich Pyke Computer Services. All Rights Reserved.

This does not affect your statutory rights as a consumer.

### **12. Severability**

If any provision (or part of a provision) of these Terms and Conditions are found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force. If any invalid, unenforceable or illegal provision would be valid enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.