

DODO
WEB HOSTING
TERMS OF
SERVICE



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DODO WEB HOSTING TERMS OF SERVICE

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DODO SFOA GENERAL TERMS AND CONDITIONS

1 DEFINITIONS

In this document, the following words have these meanings:

You means a subscriber to the Service, or any person who accesses the Service using the subscriber's access details;

Service means a web hosting service provided by Dodo Australia, together with associated services and software such as email facilities, web space and customer support;

We, us, our means Dodo Australia Pty Ltd (ACN 680 877 366).

2 GENERAL TERMS OF SERVICE

2.1 Your use of the Services indicates your acceptance of these Terms.

2.2 This agreement is governed by the laws in place in the State of Victoria, Australia.

3 THE SERVICE

3.1 We agree to provide you the Services you have purchased in accordance with these Terms.

3.2 You agree to provide us with such contact information as we reasonably require in order to provide you the Services, and for billing and technical notification. We are not responsible for any disruption to the Services due to our inability to contact you.

3.3 While we will make every reasonable effort to ensure that your data is protected and stored on our server(s), we are not responsible for your data, files, or directories residing on our equipment. You are solely responsible for maintaining data, file, and directory structure backups.

3.4 From time to time, we may decide to archive data for the purpose of disaster recovery. In the event of equipment failure or data corruption, we will restore from the last known good archive. It is therefore your responsibility to maintain an up-to-date copy of your data at all times. We will not be liable for incomplete, out-of-date, corrupt or otherwise deficient data recovered from our backups.

3.5 You are responsible for and must provide all telephone, computer, hardware and software equipment and services necessary to access the Services. We make no representations, warranties, or assurances that your equipment will be compatible with the Services.

4 PAYMENT

- 4.1 The charges payable for the Service are set out on our website and You must pay for the Service in accordance with those charges.
- 4.2 Other than circumstances where we have incorrectly charged you for use of the Service, you are responsible for and have to pay for the use of your Service. Where you have supplied us with your credit card and/or banking details, you give us authorisation to debit your credit card for all charges. Payments will be processed monthly on the anniversary date of the acceptance by Dodo Australia of your hosting account. Where the anniversary date is on a weekend or public holiday, Dodo Australia will debit your credit card on the business day before the Anniversary date.

5 AMENDING THESE TERMS

- 5.1 If you have entered into a fixed term contract with us, the pricing for that Service will apply for the term of your fixed contract term and we cannot change these without your informed consent.
- 5.2 In all other circumstances, we may amend these Terms and conditions as set out below.
- 5.3 If we reasonably believe that the amendment to these Terms will benefit you or have a neutral impact on you, we can make the amendment immediately. For example, we do not have to give a period of notice to you when we reduce the pricing for the Service or if we increase our general obligations to you. We will take reasonable steps to bring the general nature of such changes to your attention.
- 5.4 Where we reasonably believe that the amendment to these Terms will have a minor impact on you, we will give you 30 days written notice of the change being implemented.
- 5.5 If the change referred to in clause 5.4 will have more than a minor impact on you, we will allow you to cancel the contract without incurring any additional fees or penalty.
- 5.6 If you continue to use the Service after the expiration of the notice periods specified in this clause 5, you will be deemed to have accepted the new or amended charges.

6 TERMINATION

- 6.1 If we provide the Service to you without a fixed contract term, we will provide the Service in accordance with these Terms until the Service is cancelled under this clause 6.

- 6.2 If we provide the Service to you with a fixed contract term, we will provide the Service to you in accordance with these Terms until the expiration of the fixed term or until the Service is cancelled under this clause 6.
- 6.3 If neither you are we cancel the specific Service at the end of the fixed contract term or the Service is not cancelled under this clause 6, then we will continue to provide the Service on a month to month basis in accordance with these Terms.
- 6.4 You may cancel the Service at any time by giving us 30 days written notice of your intention to do so.
- 6.5 If you cancel the Service before your fixed contract term for your Service has expired, for example, you cancel the Service 6 months into your 12 month fixed contract term, you agree that, if you have paid any money in advance, you will forfeit that money, or if you have not paid any money in advance, we can charge you an early termination fee.
- 6.6 Where you acquire the Service on a month by month basis, we can cancel your Service at any time if we:
- (a) Get your consent;
 - (b) Give you 30 days written notice, or as otherwise agreed between you and us; or
 - (c) Migrate the Service to another service that is not materially worse than the Service.
- 6.7 Where you acquire the Service under a fixed contract term, we can cancel the Service before the end of the fixed contract term at any time if:
- (a) We get your consent to do so;
 - (b) We appropriately offset the effect of the cancellation on you, for example, by providing an appropriate credit or rebate to you;
 - (c) We migrate the Service to another service that is not materially worse than the Service; or
 - (d) We offer to migrate you to an alternative service for the remainder of your fixed contract term and we offset any material detrimental effects of the migration caused by any material differences between the Service and the alternative service we offer.
- 6.8 We can cancel the Service at any time, if:
- (a) You are in material breach of these Terms;
 - (b) We have notified you in writing of your material breach and

you have failed to remedy it within 14 days of the date of the notification; or

- (c) The material breach is something that cannot be remedied, in which case we reserve the right to cancel the Service immediately.

6.9 You will be in material breach of these Terms if you:

- (a) Do not pay the charges for the Service when they become due and payable;
- (b) Use the Service in a way which we reasonably believe is fraudulent, poses an unacceptable risk to our security or network capability or that of our suppliers or other customers, or is illegal; or
- (c) Breach any of your obligations under our Acceptable Use Policy.

6.10 If we cancel the Service under this clause 6, then you agree that, if you have paid any moneys in advance, you will forfeit that money, or if you have not paid any money in advance, we can charge you an early termination fee.

7 ACCEPTABLE USAGE POLICY AND PRIVACY

7.1 You agree to comply with our Acceptable Use Policy, located on our website and as amended from time to time.

7.2 You agree to comply with our Privacy Policy, located on our website and as amended from time to time.

7.3 You agree that we may disclose your account and other information in accordance with the Acceptable Use Policy and Privacy Policy.

8 MAINTENANCE

8.1 We may suspend or restrict the Service temporarily if we reasonably believe it is desirable to do so in order to maintain or restore part of a third party supplier's network. We will try and perform maintenance and repair work at times that will cause the least inconvenience to you.

8.2 We may need to perform unscheduled maintenance. We will attempt to post details of all unscheduled maintenance on our web site, and will notify you after the maintenance has been completed.

9 WARRANTIES

9.1 You warrant that you will:

- (a) use the Service strictly in accordance with our Acceptable Use Policy;

- (b) not use the Service (or permit or authorise another person to use the Service) to commit an offence or violate any law or regulation; and
- (c) not use the Service (or permit another person to use the Service) in a manner that will interfere with any part of our network, or the network of our third party supplier.

9.2 You acknowledge that we do not provide any warranty to you that the Service:

- (a) will be uninterrupted or error free; or
- (b) will contain any computer virus, trojan, worm or other computer code that is harmful or disabling or which assists in or enables unauthorised access to or corruption of data, or will deny any service attack.

10 LIABILITY

- 10.1 Except in relation to liability for personal injury (including sickness and death), we will be under no liability (whether in contract, tort or otherwise) to you in respect of any loss or damage (including any loss of profits or indirect, consequential, incidental, special, exemplary or punitive loss or damage) which may be suffered or incurred or which may arise directly or indirectly in respect of the Services. In particular, we will not be held liable for reimbursement for losses of data or income due to disruption of the Services, any unauthorized access to or alteration of your website or data or any failure to store or loss of data, files or other content.
- 10.2 Where statute implies a term, then that term will be taken to be included in these Terms to the extent required by law. However, our liability for any breach of that term will, to the extent permitted by that statute, be limited to, at our option, the resupply of the Services or covering the cost of having the Services supplied again.
- 10.3 Our total liability (whether in contract, tort or otherwise) will not exceed an amount equal to the sum of the charges for the Service paid by you.

11 INDEMNITY

- 11.1 You will indemnify us and our third party suppliers from and against any and all claims, damages, losses, liabilities, demands, proceedings and expenses (including our reasonable legal fees) incurred by us or our third party suppliers arising out of, or directly or indirectly relating to:
- (a) any breach of these Terms;

(b) the use of the Services; and

(c) your failure to comply with our Acceptable Use Policy (and any action we may take under our Acceptable Use Policy).



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