

HOSTING TERMS & CONDITIONS

This contract is between Carpe Diem Incorporated Limited, a company incorporated in England under Company No. 3873667, OPUS @ Pyramid, Palmyra Square South, Warrington, Cheshire WA1 1BL and the Client for provision of the Specified Services described below.

The headings in these terms are for convenience only and shall not affect their interpretation.

Duration

The minimum term for all hosting, servers and virtual servers is 12 or 36 months¹ plus 90 days' notice period.

Start / Renewal Date: Your activation date is calculated from the date on which you request us to provide the service, or from the date on which we start to provide services to you. This is known as your "Renewal date".

Automatic Renewal: Upon the expiry of the Minimum Term, or any anniversary thereafter, the Contract will renew automatically for further periods of 12 or 36 months.

Service Obligation

Carpe Diem will use all reasonable endeavours to provide a prompt and continual service but will not be liable for any loss of data or service resulting from delays, non-deliveries, missed deliveries, or service interruptions caused by events beyond the control of Carpe Diem, or by errors or omissions of the customer.

This agreement contains express warranties, undertakings and obligations of Carpe Diem. All other conditions, warranties, terms, undertakings and obligations of Carpe Diem, whether implied by statute, common law, custom, trade usage or otherwise and all duties of care, contractual or otherwise, and all liabilities of any of Carpe Diem staff arising there from are hereby wholly excluded.

The liability of Carpe Diem in contract, tort, negligence or otherwise arising out of or in connection with the supply of services hereunder shall be limited in respect of any one event or a series of two or more connected events.

Carpe Diem excludes any warranty as to the quality or accuracy of information received through the service.

Carpe Diem guarantees a Service Level of 99.5% uptime for servers and/or access to servers and/or access to the Internet in any given month. This guarantee includes: 24 x 7 network monitoring, 4-hour engineer response and 8-hour fix solutions. Failure to provide a minimum of 99.5% uptime will trigger compensation pro rata at the rate of one day's rental refund per hour of downtime. The ADSL service is excluded from this SLA.

The Customer acknowledges that, as viruses are regularly created and distributed, the anti-virus service is intended to detect only specific known viruses and Carpe Diem does not warrant that the service will detect all viruses present on the Customer's computer systems or networks at any given time. In addition, false virus detections might occur and, if in any doubt, the Customer should contact Carpe Diem to assess if a positive detection is correct.

Cancellation

In the unlikely event that you wish to cancel the service we provide; you should write or email us telling us that you wish to cancel and when you wish such to be effective from.

¹ As noted in your service invoice or as agreed in your proposal of services.



You must give a minimum 90 days' notice. For clarity, your minimum term is 12 or 36 months, plus 3 months' notice, totalling 15 or 29 months.

There may be a charge for early termination, and this will be explained to you when your notice is served.

Suspension of Service

Carpe Diem may elect to suspend the service immediately on breach of any of the terms and conditions of this agreement, including without limitation late or non-payment of sums due.

From time to time the whole or part of the network may be closed down for routine repair or maintenance work. Carpe Diem shall give as much notice as possible in the circumstances and shall endeavour to carry out such works during the scheduled maintenance periods as published from time to time. Loss of service due to down time for maintenance after notice has been given (minimum of 24 hours) will not form part of the guaranteed 99.5% uptime calculation.

Improper use

The customer acknowledges that it may only use the service for lawful purposes. The customer warrants that:

It shall not knowingly use the service to receive or transmit material that is obscene, threatening, menacing, offensive, defamatory, in breach of confidence, in breach of any intellectual property right, or otherwise unlawful.

The account is to be used by a single user only (unless otherwise agreed) and that it will not allow simultaneous access using the same login.

The registered user of the account will keep the username and password secure and not let them become public knowledge and that the password will not be stored anywhere on a computer in plain text.

If the password becomes known to any other unauthorised user, the registered user will inform Carpe Diem immediately.

Any breach of these obligations shall entitle Carpe Diem to immediately terminate the service to the customer.

The customer hereby indemnifies and agrees to keep Carpe Diem fully and effectually indemnified from and against any and all losses, costs, actions, proceedings, claims, damages, expenses, including reasonable legal costs and expenses, or liabilities whatsoever suffered or incurred directly by Carpe Diem in consequence of the customer's breach or non-observance of these terms and conditions.

The customer shall defend and pay all costs, damages, awards, fees (including any reasonable legal fees) and judgments, awarded against Carpe Diem arising from the above claims and shall provide Carpe Diem with notice of such claims, full authority to defend, compromise or settle such claims and reasonable assistance necessary to defend such claim, at the customer's sole expense.

Use by others: The customer acknowledges that Carpe Diem is unable to exercise control over the material sent over the service and that Carpe Diem hereby excludes liability of any kind for the reception by the customer of offensive, threatening or obscene material.

Connection to other Networks

The service may be used by the customer to link into other networks worldwide, and the customer agrees to confirm the acceptable use policies of such networks.



Restriction on Sub-leasing / Reselling

The customer in entering into this contract undertakes that it will not assign, re-sell sub-lease or in any other way transfer the Carpe Diem connection. Contravention of this restriction in any way, whether successful or not, will result in the service being terminated by Carpe Diem

Assignment

Carpe Diem shall be entitled to assign this Agreement either in whole or in part. This Agreement shall be personal to the Customer who shall not be entitled to assign this Agreement in whole or part.

Data Protection

Carpe Diem reserves the right to put the names and other information from the registration form relating to its Customers into a computerised directory for internal use only, unless specific written instructions are received from the Customer.

Except as provided in this section 9, Carpe Diem makes no other warranties, express or implied, with respect to the licensed programs, their merchantability or their fitness for a particular purpose.

Limitation of liability: repair, replacement or refund are the options of Carpe Diem as the exclusive remedies if there is a defect. In no event shall Carpe Diem or the other software providers be liable for indirect, incidental or consequential damages, including, without limitation, loss of income, data, use, or information, even if Carpe Diem or the other software providers have been advised of the possibility of such damages in no event shall the liability of Carpe Diem or the other software provider exceed the amount paid for the licensed programs at issue. You expressly assume all risk for such use.

Termination of access

Notice of termination of service by the subscriber shall be in writing and shall take effect from the end of the month in which such notice is received. Refund of pre-paid subscriptions shall be limited to a refund of whole month paid up subscription beginning the month following notice of termination after the minimum rental period.

Upon termination of these Conditions for whatever reason all due or outstanding fees and expenses owed by the Client to the Company shall forthwith become due and payable. Where these costs have not been met, the Company is entitled to prevent the transfer of the Clients domain name to another ISP.

Payment

Unless otherwise agreed, the Customer will pay the annual or monthly costs to Carpe Diem by BACS within 30 days. Please note, services are always paid in advance of provisioning.

If payment of any sum has not been made on or before the due date, Carpe Diem will be entitled to charge interest thereafter on such sum at either the rate of 4% per annum above the current base rate of Royal Bank of Scotland plc from time to time, or if higher Carpe Diem will be entitled to claim under the Late Payment of Commercial Debts (Interest) Act 1998 (such interest being deemed to accrue from day to day and being compounded on the last day of each calendar month) from the due date until the date of payment whether before or after judgement.

If the Carpe Diem is unable, for whatever reason, to recover any sum due under the Customer's account within four days following the due date for payment, Carpe Diem reserves the right to forthwith suspend all or any of the Services.

If the Customer's account remains unpaid (in any part) Carpe Diem may require a security deposit of three times the average monthly invoice or payment in full for the next twelve months before Carpe Diem will reinstate the Service.



If the Customer's account remains unpaid (in any part) for a period of 30 days after the original due date for payment, the Services may then be terminated by Carpe Diem.

Without prejudice to the Company's other remedies, if the Customer's account remains outstanding for any reason after the original due date for payment, then:

The Customer will be charged an administration fee of £25 for each piece of correspondence in connection with the recovery of the overdue amount. Carpe Diem may also charge the Customer a fee where it suspends a Service for non-payment; and

Carpe Diem reserves the right to refer the outstanding account to a debt collection agency. If Carpe Diem instructs a debt collection agency to collect payment (including interest and late payment charges) on its behalf the Customer must pay Carpe Diem's costs payable to the agency, who will add the sum to the Customer's outstanding debt.

This limited warranty shall be governed and construed in accordance with the laws of England and Wales.

Read these terms and conditions carefully as acceptance of our service will constitute your full agreement of these terms.

