



# Domains & Hosting Terms & Conditions

## 1. Definitions

In these Conditions unless otherwise stated:- "Act" means the Telecommunications Act 1984;

"Additional Charges" means any charges payable to the Company for services not included in the Specified Service, and which are payable in accordance with Clause 5 and which may vary from time to time;

"Agreement" means any contract for the provision of Services by the Company to the Customer which incorporates these Conditions;

"Amendment Notice" means any notice of variations to the Charges in respect of the Services as may be issued from time to time;

"Charges" means the charges payable by the Customer for the provision of the which may vary from time to time;

"Company" means Visionworks Ltd., a company registered in Northern Ireland under number NI28091 whose registered office is currently situated at Vision House 56 Donegall Pass Belfast BT7 1BU;

"Commencement Date" means the date upon which the Company confirms acceptance of the Customer's offer to pay for the Services in accordance with these Conditions;

"Credit/Debit Card" means any credit card or debit card issued by financial institutions which is acceptable to the Company and include but are not limited to Master Card, Switch Card, Delta Card and Visa Card.

"Duration Period" is the period commencing on the Commencement Date and expiring on the date the Agreement is terminated in accordance with Clause 7 of these Conditions;

"Equipment" means the computer software provided by the Company in respect of the Specified Service;

"Naming Organisation" means Nominet UK (<http://www.nic.uk>) for .uk and SRS Plus as ICANN accredited Registrar (<http://www.icann.org>) for .com, .net, .org, .info, .biz and .name domains or such other Naming Organisation as the Company may specify to the Customer from time to time;

"ICANN" means Internet Corporation for Assigned Names and Numbers; "Initial Registration Period" means the period of one year for .uk, .com, .net, .org, .info and .biz domains commencing on and including the date of the application for Registration;

"Intellectual Property Rights" means all or any registered or unregistered



intellectual property rights in any part of the world, including but not limited to patents, design rights, copyrights, topographical rights, know-how, rights in inventions and ideas and rights to confidence together with any right to apply for any such intellectual property rights and the benefit of any applications for any such intellectual property rights; "Order" means a request made by the Customer to the Company for Services to be supplied subject to these Conditions;

"Registration" means an application by the Company acting as agent for the Customer to register domain name(s) with the Naming Organisation;

"Renewal Period" depends on the Services ordered by the Customer and can range from 3 months to 2 years.

"Service" and "Services" means the providing of a Dedicated Server, the Registration of domain name(s) and/or hosting the domain name(s) of the Customer, or any other products or services of the Company;

"Specified Service" means the Service ordered by the Customer.

"UDRP" means Uniform Domain Names Dispute Resolution Policy;

"Working Day" means a day other than a Saturday or Sunday on which the Clearing Banks in the United Kingdom are open to the public for the transaction of business.

## **2. Terms of Contract**

### **2.1 Incorporation of Conditions**

These Conditions shall apply to and be incorporated into any Agreement between the Company and the Customer relating to the Services.

### **2.2 Conflict**

Subject to any special conditions agreed between the Company and the Customer, these general Terms and Conditions shall apply and shall prevail over any other term of this Agreement. No variation or waiver or addition to this Agreement shall be binding on the Company, unless and until it is confirmed in writing by the Company.

## **3. Supply of the Services**

3.1 The Company agrees to supply the Services to the Customer on the following conditions, though please note that these conditions are not an offer to provide service but merely a statement of the terms on which we would provide them. (a) the Company shall (subject to Clause 4.1) supply the Services to the Customer as soon as reasonably practicable from the Commencement Date of the Agreement; (b) the Company shall inform the Customer of any delay in the

delivery of the Services as soon as reasonably practicable.

### **3.2 Warranty**

The Company warrants to the Customer that the Services will be provided using reasonable care and skill but at all times this will be subject to downtime caused by routine or emergency maintenance by the Customer or occasioned by third parties. The Company will not be liable to the Customer or any third party for any losses whatsoever caused by such downtime.

## **4. Registration of Domain Name(s)**

4.1 The Company does not accept responsibility nor does it make any warranty that the domain names(s) requested by the Customer will be accepted for registration in the register of the Naming Organisation nor will it be liable for any costs of the Customer incurred if the application for Registration is unsuccessful. The Company does not accept responsibility for any liability to third parties for breach of their Intellectual Property Rights in relation to the domain name(s) requested by the Customer .

## **5. Charges**

5.1 The Charges shall apply from the Start Date. You shall pay the Charges owed to Visionworks within our payment term which is 30 days from the date of invoice.

5.2 Visionworks reserves the right to vary the Charges at any time on giving you 28 days notice in writing.

5.3 Dishonoured Direct Debits and cheques will be charged to the Customer at the rate of £3/€5 per transaction.

5.4 Any unpaid monies owing to Visionworks may be referred to a collection agency.

5.5 Visionworks reserves the right to suspend and/or cancel the service at any time due to non payment of invoices within the specified payment terms as per

5.6 Visionworks will not be liable for any loss of profits, business or anticipated savings which may or may not arise as a result of any suspension of the service for unpaid invoices.

## **6. Limitation of liability**

6.1 Visionworks accepts unlimited liability for death or personal injury resulting from its negligence.

6.2 Neither party shall be liable to the other, either in contract, tort (including negligence) or otherwise for direct or indirect loss of profits, business or anticipated savings, nor for any indirect or consequential loss or damage or for any destruction of or impairment of access to any data arising in relation to this Agreement including, without limitation, Visionworks ability to provide the Service.

6.3 The liability of Visionworks in contract, tort (including negligence) or otherwise in relation to this Agreement is limited to the price paid by you for the Charges in the year (commencing from the Start Date or any anniversary of the Start Date) in which the liability first arose.

6.4 Each provision of this Agreement, excluding or limiting liability, operates separately. If any part is held by a court to be unreasonable or inapplicable, the other parts shall continue to apply.

## **7. Term and Termination**

7.1 This Agreement may be terminated by notifying Visionworks in writing.

7.1.1 The contract will roll on year to year, unless the Customer gives us a request to cease the services. Any such request must be received no later than 30 days prior to the renewal date.

7.1.2 The Customer acknowledges that if they serve notice to terminate their agreement with Visionworks, no refund will be due for the remainder of the period of the contract yet to run.

7.2 After the Start Date this Agreement may be terminated as follows and the cancellation provisions of the Consumer Protection (Distance Selling) Regulations 2000 (the "Distance Selling Regulations") will not apply to the Service:

7.2.1 by you giving 7 days notice if we inform you of a material change to the Service or we give notice of an amendment to this Agreement pursuant to Clause 9 where such changes are to your detriment;

7.3 Either party may terminate this Agreement immediately, on notice if the other:  
(a) commits a material breach of this Agreement, which is capable of remedy, and fails to remedy the breach within a reasonable time of a written notice to do

so; or (b) commits a material breach of this Agreement which cannot be remedied; or (c) is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of their creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation), or compulsory liquidation or a receiver or administrator is appointed over their assets.

7.4 Visionworks shall be entitled to terminate this Agreement in the event that: (a) the contract between Visionworks and Naming Organisation enabling Visionworks to provide the Service is terminated; (b) the service provided to Visionworks by Naming Organisation is not of the quality deemed by Visionworks to be appropriate to provide the Services; or

7.5 If any of the events detailed in 7.3 occur as a result of your default, Visionworks may suspend the Service without prejudice to its right to terminate this Agreement. Where the Service is suspended under this Clause 7.5 you must pay all the Charges due in respect of the Service until this Agreement is terminated.

7.6 Termination in accordance with this Clause 7 shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either party and all provisions which are expressed to survive this Agreement or impliedly do so shall remain in full force and effect.

## **8. Force Majeure**

8.1 If either party is unable to perform any obligation under this Agreement because of a matter beyond that party's reasonable control such as lightning, flood, exceptionally severe weather, fire, explosion, war, civil disorder, industrial disputes (whether or not involving that party's employees), or acts of local or central Government or other competent authorities or events beyond the reasonable control of that party's suppliers, the party will have no liability to the other for that failure to perform.

8.2 If any of the events detailed in Clause 8.1 continue for more than one month either party may serve notice on the other terminating this Agreement.

## **9. Variation**

Visionworks reserves the right to vary the terms of this Agreement or the nature of the Service (where the technical specification of the Service is varied) at any time and Visionworks will inform you of any such changes through e-mail, newsletter or such other medium, as Visionworks considers appropriate.

## **10. Miscellaneous**

10.1 The Agreement shall be governed by and construed in accordance with Northern Ireland Law and the parties hereby agree to submit to the exclusive jurisdiction of the High Court of Northern Ireland in respect of any dispute or matter arising out of or in connection with the Agreement.

10.2 This Agreement constitutes the entire agreement between the parties and supersedes representations, communications and prior agreements (oral or written). This Clause shall not apply to any statement, representation, or warranty made fraudulently, or to any provision of this Agreement that was induced by fraud for which the remedies available shall be all those available under the law.

10.3 Any notice or other communication to be given under the Agreement must be in writing to the other party and may be delivered or sent by email, pre-paid first class letter post or fax transmission at the party to be served last known address. Any notice or document shall be deemed served if delivered, at the time of delivery; emailed, at the time of delivery to your email server; posted, 48 hours after posting; and if sent by facsimile transmission, at the time of transmission.

10.4 This Agreement shall not be assigned, sub-contracted, novated, sub-licensed or otherwise disposed of by you. Visionworks reserves the right to assign, sub-contract or otherwise transfer its obligations to provide the Service to any third party.

10.5 The illegality, invalidity or unenforceability of any provision this Agreement shall not affect the continuation in force of the remainder of this Agreement.

10.6 A person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of these terms. This clause does not affect any right or remedy of any person that exists or is available or otherwise than pursuant to that Act.

10.7 All written correspondence must be directed to the Admin or Accounts department within Visionworks.



10.8 You shall inform Visionworks of any change in your name, address and/or telephone number(s) as provided by you in the Application Form (the "Personal Data"). The Customer hereby warrants that the Personal Data is true and accurate in all respects at the date hereof and undertakes to notify Visionworks of any changes to same during the term of this Agreement.

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