

GC Web Dedicated & Managed TOS

Performance. GC Web agrees to provide and customer agrees to purchase the services requested by customer from the website, in email or in writing. Customer may add services via any of the 3 methods and agrees to pay in advance for them whether they be 1 time charges or recurring monthly fees.

Changes No changes to this agreement shall be binding except those in writing counter-executed by both parties. Deviations in pricing shall be agreed to in writing. Email shall confirmed by both parties shall suffice.

Invoices, Payment. GC Web will invoice Customer for Fees and Expenses monthly; provided, however, that GC Web may invoice Customer for Fees and Expenses associated with Service(s) provided pursuant to a customer request immediately upon GC Web's provision of such Service(s). Customer acknowledges that GC Web will invoice certain Service(s) (including without limitation telecommunications services) in advance of the provision of such Service(s). Payment shall be due immediately upon the invoice date for recurring monthly services whether or not customer has received an invoice yet or not. Invoices which remain unpaid fifteen (15) days after receipt of same by Customer shall accrue interest at a rate of one and a half percent (1.5%) per month (or at the maximum interest rate otherwise allowed by law) until paid in full and service may be terminated for non payment after 7 days at GC Web option. Expenses shall be included on an invoice only to the extent that the actual amount of Expenses is known to GC Web at the time the invoice is issued, and Expenses for which an actual amount is not known to GC Web at the time an invoice is issued may be included on subsequent invoices. Unless otherwise agreed in writing by the Parties, the failure of GC Web to include earned or incurred Fees or Expenses on a given invoice shall not relieve Customer of its obligation to pay such Fees or Expenses. Customer's obligation to pay Fees or Expenses shall survive the termination of this Agreement for any reason whatsoever.

Security Interest. Customer grants GC Web a blanket security interest in the customer's contract with their customers who are renting servers from them in the GC Web data centre in the event of non-payment by customer - customer agrees that GC Web may take these customer contracts direct without a tortious interference claim to protect the credit balance owed GC Web by customer and full ownership of the contracts shall transfer as well if balance is more than 60 days old.

Term. The term of this Agreement shall begin upon the date the server is installed and made available to customer and shall be for 1 month and shall renew for successive 1 month terms until terminated by either Party upon the sooner of (i) thirty (30) days prior written notice to the other Party, or (ii) the expiration or termination of all Service(s) set forth in the Statement of Work and all Work Order(s).

Termination Due to Breach. In the event that Customer commits a material breach of any of its obligations hereunder, GC Web may terminate this Agreement or (at GC Web's sole option) suspend, interrupt or terminate one or more Service(s) to which such breach pertains by sending written notice of termination to Customer with termination effective as of the fifth (5th) calendar day after the date such notice is given.

Effects of Termination. Unless the Parties agree otherwise in writing, termination of the Agreement shall also serve to terminate all Service(s) and Statements of Work and to cancel all Work Orders, and Customer shall pay GC Web all Fees and Expenses earned or incurred by GC Web pursuant to such Service(s), Statements of Work and Work Orders through the date of termination, less any payments made hereunder by Customer prior to said termination. Additionally, all property of each Party which is in possession of the other Party shall be returned to its owner. In the event one or more Service(s) is terminated prior to the expiration of the Term for such Service(s) (other than due to a material breach of this Agreement by GC Web

Warranties of GC Web. 99.9% uptime

GC Web warrants that the Service(s) shall be provided in a workmanlike and professional manner. Upon GC Web's breach of the foregoing warranty, Customer's sole and exclusive remedy shall be to require GC Web to exercise commercially reasonable efforts to repair or replace the nonconforming Service(s); provided, however, that, with respect to any Service(s) which are interrupted or rendered inoperable due solely to GC Web's breach of the foregoing warranty for any time period, Customer shall also be entitled to a pro-rata refund of any Fees attributable to the interrupted or inoperable Service(s) in an amount determined by multiplying the fixed monthly, recurring Fees (if any) for the interrupted or inoperable

Service(s) by the ratio that the number of consecutive hours of inoperability bears to 720 hours (for the purpose of this computation, each month is deemed to have 720 hours). GC Web will not be liable to any extent whatsoever for interruption, restriction, inoperability or malfunction of any Service(s) which is not caused solely by a breach of the warranty set forth in this Section 4.1. GC Web expressly reserves the right to suspend, interfere with, impair or terminate Service(s) as necessary for purposes of maintenance, upgrades or repair (either by GC Web or by any supplier, partner or independent contractor of GC Web) or in the event of any circumstance which GC Web, in its sole discretion, deems necessary or desirable to prevent or remedy an impairment of, or harm to, the integrity or functionality of any Service(s) or any plant, services or facilities of any Indemnitees (as defined in Section 4.3) or of any third party, and neither the exercise nor the non-exercise of the foregoing rights or discretion shall constitute a breach of any provision of this Agreement.

EXCEPT AS SET FORTH IN SECTION 4.1.1, GC Web MAKES NO WARRANTIES, EXPRESS OR IMPLIED, CONTRACTUAL OR STATUTORY, INCLUDING BUT NOT LIMITED TO WARRANTIES OF UNINTERRUPTED OR ERROR-FREE OPERATION AND THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SERVICE(S) OR ANY ASPECT THEREOF, AND ALL WARRANTIES WITH RESPECT THERETO ARE HEREBY EXPRESSLY DISCLAIMED. Customer expressly acknowledges and agrees that proper provision of the Service(s) is dependent upon the provision to GC Web by Customer of timely and accurate information regarding (i) Customer's needs and expectations regarding the Service(s), and (ii) all operational, technological or other data which Customer knows or should know is relevant to the provision of the Service(s) (collectively "Information"). Customer shall provide the Information to GC Web in a timely manner and the Information shall be accurate. Customer agrees that, in the event of Customer's breach of its obligations in this Section 4.1, the warranty set forth in Section 4.1 shall be null and void.

Warranties of Customer. Customer hereby covenants, represents and warrants that:

Customer will not, and will not permit others to, use any Service(s) (i) for any unlawful or illegal purpose or in connection with or in furtherance of any unlawful or illegal activity, (ii) in violation of any applicable law or regulation, (iii) in a manner that will, or is likely to, infringe the copyright, trademark, trade secret or other intellectual property rights of others or violate the right of privacy, publicity or other personal rights of others, or (iv) in connection with any conduct or activity that is, in the sole opinion of GC Web, defamatory, indecent, obscene, offensive, threatening, abusive, hateful, tortious or violative of the rights of any other person or entity; Customer will not, and will not permit others to, do any act which may interfere with or compromise the security or functionality of any Service(s), including without limitation attempting to probe or test the vulnerability of any system or network connected to or accessible by the Service(s); No equipment owned, leased, maintained by or controlled by Customer or by any third party which is connected to or utilized the Service(s) with the consent of Customer will (i) interfere with or impair any Service(s) or any plant, services or facilities of any Indemnitees or of any third party, (ii) unlawfully interfere with or impair the transmission of privacy of any data or communications transmitted over the Service(s) or over any plant, services or facilities of any Indemnitees or of any third party, or (iii) create, cause or contribute to the creation or causing of a hazard to any Indemnitees or to any third party;

Indemnification. GC Web reserves the right to suspend, interrupt or terminate any Service(s) or this Agreement immediately without further notice in the event of a breach by Customer of Section 4.2. GC Web reserves the right to remove, delete, disable or block transmission of any data or materials which GC Web reasonably believes constitute, either alone or in conjunction with other acts, omissions or data or materials, a breach or potential breach by Customer of Section 4.2. Customer agrees to defend, indemnify and hold harmless GC Web, its successors or assigns, subsidiaries, officers, directors, employees, agents, independent contractors, licensees, licensors, suppliers and customers (excluding Customer) (collectively "Indemnitees") against any and all claims, liability, loss, damage, or harm (including without limitation reasonable legal and accounting fees) suffered by such Indemnitees (including without limitation claims, liability, loss, damage, or harm in connection with death, bodily injury or injury to real or personal property) arising from or in connection with (i) Customer's purchase or use of any Service(s), including without limitation any claims, liability, loss, damage, harm suffered by such Indemnitees arising from or in connection with the use by any third party of any Service(s) purchased by Customer regardless of whether such use was authorized by Customer, or (ii) Customer's breach of any provision of this Agreement.

Limitation of Liability. Any other provision of this Agreement to the contrary notwithstanding, the aggregate liability of all Indemnitees for any losses or damage, whether direct or indirect, arising out of or

in connection with the Service(s), including without limitation any cause of action sounding in contract, tort or strict liability, shall be limited to actual, direct damages incurred but in no event shall exceed the greater of (i) One Thousand Dollars, or (ii) the Fees paid by Customer to GC Web during the two (2) months preceding the month in which liability arose for the Service(s) in connection with which such liability arose. GC Web shall not be liable for lost profits or other consequential damages, cover damages, or for any claims against Customer by any third party, even if GC Web was advised of the possibility of same. Under no circumstances shall GC Web be liable hereunder for special damages, consequential damages, general damages, incidental damages, indirect damages, or exemplary or punitive damages. No action arising out of this Agreement, regardless of form, may be brought by Customer against GC Web more than one (1) year after the cause of action arose. Without limiting the foregoing:

Customer acknowledges that GC Web is not responsible for controlling or monitoring any content, information, data or other materials stored on, transmitted via, or accessible through use of, the Service(s), and GC Web will have no liability to Customer whatsoever in connection with such content, information, data or other materials (including without limitation the accuracy or suitability thereof or unauthorized access or damage to, alteration, theft, corruption destruction or loss of, Customer's data or other materials); GC Web will have no liability to Customer whatsoever in connection with any harm or loss arising from or in connection with unauthorized access to the Service(s); and all Indemnitees are expressly made third party beneficiaries of this Section 5.

This Section 5 shall survive expiration or termination of this Agreement for any reason whatsoever.

GC Web and Customer acknowledge that proprietary and confidential information (including without limitation trade secrets) (collectively "Proprietary Information") of each Party may be disclosed to the other Party throughout the term of this Agreement. Each Party agrees to not reverse engineer, decompile, disclose to any third party, or to use for any purpose not strictly required for such Party's performance hereunder, such Proprietary Information except to the extent that such Proprietary Information was: (i) made publicly available by the owner of the Proprietary Information or lawfully disclosed by a non-party to this Agreement; (ii) lawfully obtained from any source other than the owner of the Proprietary Information; (iii) independently developed by personnel of the receiving Party to whom Proprietary Information had not been previously disclosed and not based on or derived from such Proprietary Information; or (iv) previously known to the receiving Party without an obligation to keep it confidential. Customer will not contract directly with any subcontractor relationships that GC Web has under this agreement or are connected to future services related to this agreement or that are of the same nature. Anything to the contrary herein notwithstanding, GC Web may disclose such information to its successors or assigns, subsidiaries, officers, directors, employees, agents, independent contractors, licensees, licensors and suppliers which have signed and are bound by a suitable non-disclosure agreement with GC Web in order for GC Web to perform the service in this contract. The obligations set forth in this Section 6 shall survive the termination of this Agreement for any reason whatsoever for a period of three (3) years; provided, however, that, with respect to Proprietary Information which constitutes a trade secret, the obligations set forth in this Section 6 shall survive the termination of this Agreement for any reason whatsoever for so long as such Proprietary Information constitutes a trade secret under applicable law.

Force Majeure. If either Party shall be prevented from performing any portion of this Agreement (except the payment of money) by causes beyond its control, including labour disputes, civil commotion, war, governmental regulations or controls, casualty, inability to obtain materials or Service(s) or acts of God, such Party shall be excused from performance for the period of the delay and the time for such Party's performance shall be extended for a period of time equal to the duration of such delay.

Construction, Venue, Jurisdiction. This Agreement and any claim, action, suit, proceeding or dispute arising out of or in connection with this Agreement shall in all respects be governed by, and interpreted in accordance with, the substantive laws of the State of Georgia. Venue for any actions arising under this Agreement shall vest exclusively in courts located in the State of Georgia. Customer hereby submits to the jurisdiction of the aforementioned courts, and agrees that it will not assert lack of personal jurisdiction as a defence to any such action. Customer acknowledges that their attorney has reviewed and participated in the construction of this document and nothing herein shall be viewed as to have favourable construction.

Waiver. No waiver of any right or remedy shall be valid unless in writing and delivered to the other Party, and waiver of a right or remedy on one occasion by a Party shall not be deemed a waiver of such right or

remedy on any other occasion.

Integration. This Agreement, including all referenced or attached exhibits, schedules, attachments or documents, sets forth the entire agreement and understanding between the Parties pertaining to their subject matter and supersedes all prior or contemporaneous discussions, agreements, promises or understandings between the Parties. Neither Party shall be bound by any conditions, definitions, warranties, understandings or representations with respect to such subject matter other than as expressly provided in this Agreement.

Superior Agreement. This Agreement shall not be supplemented or modified by any course of dealing or trade usage. Addition to or variance from the terms and conditions of the Agreement by Customer, including without limitation any additional or varying terms contained in Customer's preprinted forms, correspondence or other documents transmitted to GC Web, shall be of no effect, unless otherwise expressly provided in the Agreement.

Assignment. This Agreement is not assignable by Customer, in whole or in part, voluntarily or involuntarily, including by operation of law or by merger in which Customer does not survive, without GC Web's prior written consent. Any attempted assignment without GC Web's written consent shall be null and void.

Notice. Unless otherwise agreed to by the Parties, all notices required under the Agreement shall be delivered in writing, addressed and sent to the address provided herein and to the attention of the Party executing the Agreement or the person's successor, by either (i) registered mail, (ii) certified mail, return receipt requested, or (iii) overnight mail, or (iv) by telephone facsimile transfer (v) email that is replied to as accepted - appropriately directed to the attention of the Party executing the Agreement or that person's successor. Unless otherwise agreed to by the Parties, all notices required under the Agreement shall be deemed effective when received.

Severability. If any provision of the Agreement is held invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full force and effect.

Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same Agreement.

Acceptance - payment of customer of the first months fees shall constitute acceptance of this agreement. This agreement shall be modified from time to time by GC Web and the then current version shall be posted on the GC Web website. If customer does not agree to the new terms - customer should cease utilizing the services at the next term.