

# Inception Design Terms of Service

## Introduction

- 1.1 - Disclosure to Law Enforcement
- 1.2 - Indemnification
- 1.3 - Transfer of Agreement
- 2.1 - Service Rates
- 2.2 - Payment
- 2.3 - Payments and Fees
- 2.4 - Payment Types
- 2.5 - Refund and Disputes
- 2.6 - 30-day Guarantee
- 2.7 - Failure to Pay
- 2.8 - Account Cancellation
- 2.9 - Maintenance Fees
- 3.0 - Website Design
- 3.1 - Ownership of Domains
- 4.0 - Types of Hosting
- 4.1 - Service Level Agreements
- 4.2 - Managed Hosting
- 4.3 - Content Management
- 4.4 - 3rd Party Programs
- 4.5 - Hosting Liabilities
- 4.6 - New Domain Accounts:
- 4.7 - Transfer of Domains:
- 4.8 - Support Boundaries:
- 4.9 - SPAM and UCE
- 4.10 - Bandwidth and Disk Usage:
- 4.11 - System and Network Security:
- 4.12 - Notification of Violation:
- 4.13 - Resource-Intensive Programs:
- 4.14 - Use of HDD Resources:
- 5.0 - Policy Revisions:
- 6.0 - Damages
- 6.1 - Responsibility for Content:
- 7.0 - Denial of Service:

Inception Design (hereafter "Company") agrees to furnish services to the Client (hereafter "Client"), subject to the following TOS (Terms of Service). Use of the Company Service constitutes acceptance and agreement to the Company's AUP as well as the Company's TOS (Terms of Service).

All provisions of this contract are subject to the TOS (Terms of Service) of the Company and AUP (Acceptable Use Policy). The AUP and TOS may be modified at any time at the discretion of the Company. Client understands that change to the AUP or TOS by the Company shall not be grounds for early contract termination or non-payment. This Agreement shall be construed in all respects in accordance with the laws of the state of Florida, county of Alachua applicable to contracts enforceable in that state.

### **1.1 :: Disclosure to Law Enforcement:**

The Company specifically prohibits the use of our service for illegal activities. Therefore, Client agrees that the Company may disclose any and all subscriber information including assigned IP numbers, account history, account use, etc. to any law enforcement agent who makes a written request without further consent or notification to the Client. In addition the Company shall have the right to terminate all service set forth in this

## **1.2 :: Indemnification:**

The Company wishes to emphasize that in agreeing to the the Company Acceptable Use Policy (AUP) and Terms of Service (ToS), Client indemnifies the Company for any violation of the Acceptable Use Policy (AUP) and Terms of Service (ToS) that results in loss to the Company or the bringing of any claim against the Company by any third-party. This means that if the Company is sued because of a Client's or a Client of a Client's activity, the Client will pay any damages awarded against the Company, plus all costs and attorney's fees.

Miscellaneous Provisions: Client must provide us with, and keep current, good contact information for Client. E-mail, fax, and telephone contacts are used, in that order of preference. A waiver by the Company of any breach of any provision of this Agreement by Client shall not operate as or be construed as a continuing or subsequent waiver thereof or as a waiver of any breach of any other provision thereof.

## **1.3 :: Transfer of Agreement**

Client shall not transfer or assign this Agreement without the prior written consent of the Company. Company may assign Agreement at anytime without consent from or notice to Client. Company reserves right to cancel Clients rights under this contract at anytime without further obligation.

the Company takes no responsibility for any material input by others and not posted to the the Company Network by the Company. the Company is not responsible for the content of any other web sites linked to the the Company Network; links are provided as Internet navigation tools only. the Company disclaims any responsibility for any such inappropriate use and any liability to any person or party for any other person or party's violation of this policy.

## **2.1 :: Service Rates:**

Client acknowledges that the nature of the service furnished and the initial rates and charges have been communicated to Client. Client is aware that the Company may prospectively change the specified rates and charges from time to time. The promotional offer is contingent upon Company achieving and maintaining its cost of service goals including but not limited to rates charged to company by its suppliers.

## **2.2 :: Payment:**

Establishment of this service is dependent upon receipt by the Company of payment of stated charges. Subsequent payments are due within 120 hours (5 days) of the due date of the invoice. After this period has expired and the Client has not paid the full amount as outlined in the agreement, the Company may at any time suspend and/or terminate any and all services provided to the Client. The above applies to all accounts and services provided by the Company.

## **2.3 :: Payments and Fees:**

Credit cards and PayPal payments that are declined for any reason are subject to a \$4.75 declination fee. Accounts that are not collectable by the Company may be turned over to an outside collection agency for collection. If the Client's account is turned over for collection, Client agree to pay the company a "Processing and Collection" Fee of not less than \$150 nor more than \$350. If Client desire to cancel the Client's account, please follow the proper procedure to do this as outlined in this TOS.

## **2.4 :: Payment Types**

Our preferred method of collection is via the Credit Card gateway. If, however, Client choose to pay using another tender, Client may be subject to any applicable fees, as outlined below:

Check/M.O. : \$2.50

Cash: : \$4.00

Please contact the Company for more information regarding fees for different types of tenders.

## **2.5 :: Refund and Disputes:**

All payments to the Company are non refundable after the first 15 days. This includes the one time setup fee and subsequent charges regardless of usage. All overcharges or billing disputes must be reported within 45 days of the time the dispute occurred. If Client dispute a charge to Client credit card issuer that, in the Company's sole discretion is a valid charge under the provisions of the TOS and /or AUP, Client agree to pay the Company an "Administrative Fee" of not less than \$150 and not more than \$350.

### **2.6 :: 30-day Money Back Guarantee**

Our money back guarantee applies solely to web hosting fees and NO OTHER FEES PAID. This guarantee is valid given the following three conditions: First, the complaint must be made within 30 days of the original sign-up date, and Second, the request for money back must be made by the original signee on the account who made the agreement with the Company, and Third, the guarantee request must include a reason for cancellation. Charges NOT covered by this guarantee include, but are not limited to, service level agreement fees, domain name fees, web design fees, web consulting fees, graphic artistry fees, or any service where an electronic medium is created for the Client where the media is delivered to the client. The Company reserves the right to refuse any request made for a refund at the sole discretion of the company.

### **2.7 :: Failure to Pay:**

The Company may temporarily deny service or terminate this Agreement upon the failure of Client to pay charges when due. Such termination or denial will not relieve Client of responsibility for the payment of all accrued charges, plus reasonable interest and any collection fees. If failure to pay on the Client's part results in account suspension, the Company may charge a fee to reconnect the service for not less that \$20 and not to exceed \$75.

### **2.8 :: Account Cancellation:**

Requests for canceling accounts may be made in writing with at least 30 days notice but not more than 60 days prior written notice and sent to:

Inception Design

Attn: Billing - Hosting Cancellations

PO Box 1530

Newberry, FL 32669-1530

### **2.9 :: Hourly Rates**

At the company's discretion, the Company may charge an hourly fee for work performed for the Client. This hourly charge may be charged in addition to any design fees imposed by the company. The client will be subject to pay these design fees in accordance to these TOS and our AUP. These design fees will superceed any agreement previously made with the Client.

### **3.0 :: Web Design:**

Any and all web design services are offered "as is" with no support offered. If the Client, however, chooses to subscribe to "Managed Hosting", support may be offered under the provisions of the Managed Hosting section of the Terms of Service. All design fees, deposits, or any other payments made to the Company by the Client for web design services are non-refundable. Web design is considered an intellectual property, and when exchanged to the client, is then non-returnable and all monies paid are non-refundable.

### **3.1 :: Ownership of Domains:**

Any and all domains obtained by Inception Design on behalf of the client or any other party are the sole property of the Company. The Company may, however, negotiate the transfer of domains to the Client or any third-party acting on behalf of the Client solely at the discretion of the Company. The client may not, at any time, via any route, attempt to take the domain by force from the company account with the domain registrar. All transfers of a domain are subject to an administrative fee by the company to be not less than \$2,500.

#### **4.0 :: Types of Hosting**

Depending on which type of hosting the Client subscribes to, Client may be entitled to specific services not available on every plan. If you are unsure of what you receive or are not sure what type of hosting you have, please contact us at [support@inceptiondesign.com](mailto:support@inceptiondesign.com)

Hosting is provided to the Client under the provisions on this Terms of Service and in accordance with our Acceptable Use Policy. The Client is responsible for all aspects of Client virtual account, including, but not limited to file management, FTP management, email administration, site functionality, database administration, permission designation, and user control. The Company is in no way obligated to provide any support for the functioning of the Client's web site beyond the direct scope of the services provided to the Client by the Company.

#### **4.1 :: Service Level Agreements (SLA)**

A separate agreement may be made by the Company with the Client to deliver hosting specific support. In the event that this agreement is signed by both parties, during the entire life of the agreement the SLA will take precedence over these hosting provisions.

#### **4.2 :: Managed Hosting**

Managed hosting is provided to the Client under the provisions of these Terms of Service and our Acceptable Use Policy. The Company shall provide to the Client administration of the virtual hosting account. This includes file management, FTP management, email administration, site functionality, database administration, permission designation, and user control. The Company shall not, however, be responsible for any changes made by the Client to their account in any way. The Client hereby agrees to release the Company from any and all liabilities arising from and changes made by the Client that modify in any way the virtual server account. The Client shall assume full responsibility for all content on their site, regardless of who administers it. The Company may choose to discontinue, at any time, their role as site administrators without notice. The Company may also refuse an updates requested by the Client at the discretion of the Company.

#### **4.3 :: Content Management**

A content management system may be provided to the client with their site. The client assumes all responsibility and liability arising from their content stored within the content management. The Company shall be in no way liable for any damages and/or liabilities arising from content posted on the content management system.

#### **4.4 :: 3rd Party Programs**

Third Party Programs and/or Scripts may be made available to the Client with their hosting account. These are provided to the Client at their convenience and may not be supported by the Company. These programs include, but are not limited to Bulletin Boards, Newsletters, online shops, image galleries, and mail programs. The Company shall not be liable for any and all damages resulting from use, misuse, or functionality of these programs.

#### **4.5 :: Hosting Liabilities**

Client acknowledges that the service provided is of such a nature that service can be interrupted for many reasons other than the negligence of the company and that damages resulting from any interruption of service are difficult to ascertain. Therefore, subscriber agrees that the company shall not be liable for any damages arising from such causes beyond the direct and exclusive control of the company. Client further acknowledges that the company's liability for its own negligence may not in any event exceed an amount equivalent to charges payable by subscriber for services during the period damages occurred. In no event shall the company be liable for any special or consequential damages, loss or injury.

#### **4.6 :: New Domain Accounts:**

All new web hosting accounts involving new domains will be set up and entered into our DNS servers within 1 to 3 business days. Due to unforeseen complications, however, this process may sometimes require up to 15 business days. If the new domain is registered by the account holder, there will be no handling fee. If the domain is registered by the Company on behalf of the account holder a standard registration fee will be incurred. Domain registration fees are non-refundable.

#### **4.7 :: Transfer of Domains:**

New web hosting accounts which involve the transfer of a domain from another provider to the Company will require 1 to 5 days to be set up and entered into our DNS servers. In some cases, such transfers may take up to ninety (90) days. Due to the unpredictable nature of the transfer process, no guarantees are made regarding the amount of time a specific transfer may take. If the transfer of the domain is done by the Company on behalf of the account holder a handling fee may be incurred. If the Client cancels service during the transfer period for any reason, all charges are considered earned.

#### **4.8 :: Support Boundaries:**

The Company, provides 24/7 web based technical support to our subscribers via our Help Desk. The Company limits its technical support to its area of expertise. Phone support is limited to web hosting related problems and sales questions. Due to the costs involved, support may be suspended at any time. The following is our guidelines when providing support: the Company provides support related to Client server or virtual site physical functioning. the Company is not obligated to offer tech support for application specific issues such as cgi programming, html, email, 3rd party applications or software, or any other such issue. If Client can email, the company encourages the Client to email [support@inceptiondesign.com](mailto:support@inceptiondesign.com) for assistance. If Client are able to get online and have other questions, the answers may be on our home page here - the Company encourages Client to check there first. Lastly, the Help files in the program Client are using may have the answer to Client question so please do investigate these resources before calling tech support.

#### **4.9 :: SPAM and Unsolicited Commercial Email (UCE):**

The Company takes a zero tolerance approach to the sending of Unsolicited Commercial Email (UCE) or SPAM over our network. Very simply this means that Clients of the Company may not use or permit others to use our network to transact in UCE. Clients of the Company may not host, or permit hosting of, sites or information that is advertised by UCE from other networks. In addition, it is not acceptable to transmit bulk email through remote SOCKS, HTTP or other similar proxies who in turn make a SMTP (TCP port 25) connection to the destination mail servers. This technique may result in account suspension or termination. Violations of this policy carry severe penalties, including termination of service. In order to prevent unnecessary blacklisting due to spam the Company reserves the right to occasionally sample bulk email being sent from servers. Violation of the Company's SPAM policy will result in severe penalties. Upon notification of an alleged violation of our SPAM policy, the Company will initiate an immediate investigation (within 48 hours of notification). During the investigation, the Company may restrict Client access to the network to prevent further violations. If a Client is found to be in violation of our SPAM policy, the Company may, at its sole discretion, restrict, suspend or terminate Client's account. Further, the Company reserves the right to pursue civil remedies for any costs associated with the investigation of a substantiated policy violation. the Company will notify law enforcement officials if the violation is believed to be a criminal offense. First violations of this policy will result in an "Administrative Fee" of \$350 and Client account will be reviewed for possible immediate termination. A second violation will result in an "Administrative Fee" of \$700 and immediate termination of Client account. Clients who violate this policy agree that in addition to these "Administrative" penalties, they will pay "Research Fees" not to exceed \$175 per hour that the Company personnel must spend to investigate the matter. PLEASE, DO NOT SPAM from Client account.

#### **4.10 :: Bandwidth and Disk Usage:**

Client agrees that bandwidth and disk usage shall not exceed the number of megabytes per month for the Services ordered by Client in the initial agreement. the Company will monitor Client's bandwidth and disk usage. the Company shall have the right to take corrective action if Client's bandwidth or disk usage exceeds the

Agreed Usage. Such corrective action may include the assessment of additional charges, disconnection or discontinuance of any and all Services, or termination of this Agreement, which actions may be taken is in the Company's sole and absolute discretion. If the Company takes any corrective action under this section, Client shall not be entitled to a refund of any fees paid in advance prior to such action. In the event that a Client exceeds the included allocation, the Company may, at its sole discretion, collect a deposit, in an amount determined by the Company, against Client's credit card on file with the Company.

#### **4.11 :: System and Network Security:**

Clients are prohibited from violating or attempting to violate the security of the the Company Network. Violations of system or network security may result in civil or criminal liability. the Company will investigate occurrences, which may involve such violations and may involve, and cooperate with, law enforcement authorities in prosecuting Clients who are involved in such violations. These violations include, without limitation:

- \* Accessing data not intended for such Client or logging into a server or account, which such Client is not authorized to access.
- \* Attempting to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without proper authorization.
- \* Attempting to interfere with service to any Client, host or network, including, without limitation, via means of overloading, "flooding", "mail bombing" or "crashing".
- \* Forging any TCP/IP packet header or any part of the header information in any e-mail or newsgroup posting.
- \* Taking any action in order to obtain services to which such Client is not entitled.

#### **4.12 :: Notification of Violation:**

The Company is under no duty to look at each Client's or Client's activities to determine if a violation of the AUP has occurred, nor does the Company assume any responsibility through our AUP to monitor or police Internet-related activities. First violation: Any Client, which the Company determines to have violated any element of this Acceptable Use Policy, shall receive an email, warning them of the violation. The service may be subject at the Company's discretion to a temporary suspension pending a Client's agreement in writing, to refrain from any further violations. Second Violation: Clients that the Company determines to have committed a second violation of any element of this Acceptable Use Policy shall be subject to immediate suspension or termination of service without further notice.

Suspension of Service or Cancellation: the Company reserves the right to suspend access to any Client if in the judgment of the the Company network administrators the Client's server is the source or target of the violation of any of the other terms of the AUP or for any other reason which the Company chooses. If inappropriate activity is detected, all accounts of the Client in question will be deactivated until an investigation is complete. Prior notification to the Client is not assured. In extreme cases, law enforcement will be contacted regarding the activity. The Client will not be credited for the time the Client's machines were suspended.

#### **4.13 :: Resource-Intensive Programs:**

If Client install and/or upload resource-intensive programs or files on our servers there may be an additional monthly charge, or the Company may halt and/or prohibit execution of the programs and/or files as the Company sees fit. Resource intensive programs include, but are not limited to: Bulletin Boards, Streaming Media, Chat Rooms, and Cron Jobs.

#### **4.14 :: Use of HDD Resources (Storage):**

The amount of space used is a calculation of log files, email stored server-side, as well as the actual web site content. Sites with high traffic levels can expect to lose a large portion of allocated space to log files. The Company may delete or compress log files to conserve server resources. Email may not be stored on the server for any period exceeding 30 days. If binary files (images, music, video, zip, executable files, etc.) consume more than 20% of Client total space used, the Company may halt and/or prohibit the storage of these files on Client account.

**5.0 :: Policy Revisions:**

the Company reserves the right to amend its policies at any time. All Sub-Networks, resellers and managed servers of the Company must adhere to the above policies. Failure to follow any term or condition will be grounds for immediate Cancellation. Client will be held responsible for the actions of Client Clients in the matter described on these Terms and conditions. Therefore, it is in Client best interest to implement a similar or stricter Terms and conditions or otherwise called Acceptable Terms of use policy.

**6.0 :: Damages**

The Company is not responsible for any damages Client business may suffer. the Company does not make implied or written warranties for any of our services. the Company denies any warranty or merchantability for a specific purpose. This includes loss of data resulting from delays, non-deliveries, wrong delivery, and any and all service interruptions caused by the Company. It is absolutely forbidden to host pornographic content or IRC servers on Virtual Server Accounts. Virtual Server Accounts found hosting this material will be subject to immediate cancellation without refund.

Client warrants that it has the right to use any applicable trademarks or copyrighted material used in connection with this service.

**6.1 :: Responsibility for Content:**

The Client is solely responsible for the content stored on and served by the Client on the Company's sever.

**7.0 :: Denial of Service:**

The Company reserves the right to refuse and/or cancel service to any client within the network at the sole discretion of the Company. The Company also reserves the right to refuse any client or potential customer.

If you have any questions regarding this agreement, please contact us at [support@inceptiondesign.com](mailto:support@inceptiondesign.com)