



## Definitions

The following words and expressions have the meanings respectively given to them:

“our”, “we”, “us”, “provider”, “Racksrv”, “the company” refer to Racksrv Communications

“service/s”, “provision”, refer to the services or equipment provided by Racksrv Communications

“user/s”, “customer/s”, “consumer/s”, “you”, “your”, refer to the person who has agreed to be bound by these Terms and Conditions of Service, or in the case of a person under 18 years of age, his or her legal parent, or guardian.

“Website”, refers to the Racksrv Communications website [www.racksrv.net](http://www.racksrv.net)

## 1. General Information

1.1. These terms and conditions of service constitute the agreement between the user, or customer, and Racksrv Communications. These terms and conditions of service also constitute the agreement between the user, or customer, and Racksrv Communications, where a user or customer is renewing an agreement.

1.2. Racksrv Communications and its users and customers shall be governed by the laws of England and any actions will be under the exclusive jurisdiction of the English courts.

1.3. Users and customers may also be subject to additional terms and conditions that may apply when using any third party services as part of the service offered by the company.

1.4. Any failure of the company to exercise or enforce any right or provision of the terms and conditions of service shall not constitute a waiver of such right or provision.

1.5. The company reserves the right to alter or amend these terms and conditions at any time without notice. Any alteration or amendment will take effect with regard to the agreement made between an existing individual user, or customer, on the renewal date of that agreement.

## 2. Registration

2.1. Users shall register on the Website by completing all of the required registration boxes.

2.2. Users shall provide full, complete, accurate and truthful information on registration.

2.3. Customers under the age of 18 must obtain the express permission of their legal parent, or guardian after informing such person that they will be subject to these terms and conditions of service, prior to agreement.

2.4. The company is concerned about the well being of children using our services. Parents have responsibility in their decision to allow access to the internet and our services and to ensure adequate supervision at all times. Whilst the company will do everything possible to ensure that unsuitable material is not accessible through the services we provide, it is the responsibility of the parent, or guardian, to determine whether the use of the service is appropriate for your child.

2.5. It will be understood by the company that the parent, or guardian, of any customer under the age of 18 will be legally liable in any matters arising out of a user breach of any of these terms and conditions of service.

2.6. The user shall update the company with any change in registration information within seven days of the change.

2.7. If the company considers that any information supplied by the user in clause 2.2 or 2.6 is false, or misleading, or the user has failed to comply with clause 2.3, where applicable, the company reserves the right to terminate all services to the user without notice or refund.

2.8. The user shall keep any password, or any other privileged code or information, relating to the user or services supplied, confidential.

### **3. Privacy Policy**

3.1. Any personal information a customer gives us or we obtain by a customer's use of our Website is used exclusively by Racksrv Communications to provide that customer with information about our current or future services and products and/or other services described in our Website. We do not pass any personal data to outside organisations and/or individuals, except with a customer's express consent. We may retain customer contact data and order details for a period of up to one year after a customer ceases to use our services. If a user wishes us to delete their contact data after they cease to use our services they will need to request this by writing to us at the registered address of the company.

3.2. Customers have a right to know about their personal information Racksrv Communications holds about them. Customers also have a right to have data corrected or deleted if it is incorrect. Please address any requests and/or enquiries about data protection to The Company Secretary, at the registered office of the company. If you require a copy of your personal information you will need to provide the necessary information and identification, as well as a ten pound administration fee. Information on applying can be found at: <http://www.informationcommissioner.gov.uk/eventual.aspx?id=89>. If it is found that you have complied with clauses 2.2 and 2.6 and the data we hold is incorrect and requires correction, we will refund the ten pound administration fee.

### **4. Rental**

4.1. The minimum period of service is one month for any of our services, unless otherwise agreed to in writing by and authorised official of the company. If an order for a period of greater than one month is accepted, the minimum period of service is for that period of service ordered. No notice of non-renewal is required from the user, excepting in the case of co-located equipment, where thirty days notice are required unless otherwise stated.

4.2. All payment for services becomes due on ordering, or on renewal date of an original order. If a user wishes to renew an order the minimum renewal period is the period of the original order. If payment for renewal is not received by the renewal date the company reserves the right to discontinue the service without notice.

4.3. The company reserves the right to refuse, or postpone, any order for any reason at its discretion.

4.4. Where a new order is placed and the company is unable to complete the order the customer will be contacted by email and provided with the reason for any action taken under clause 4.5. Postponement of a new order may happen due to technical difficulties resulting in insufficient space on suitable hardware.

4.5. Where an order is refused a full refund of any payment will be made to the customer within seven days of the order.

4.6. Where an order is postponed the customer will be entitled to a full refund. When contacted the customer may elect to receive a full refund within seven days, amend the order if practicable, or wait for the original order to be available. The decision of the customer, in this case, will be binding.

4.7. The setup of a new order will begin within 24 hours of receipt of cleared funds, unless the order is subject to action at clause 4.5. Where an order has been postponed and the customer has elected to change the order, or wait, the setup will take place as soon as practicable, in which case the customer will be informed of the setup date. 4.8.

Any renewal of an order that has been subject to suspension of service due to a breach of acceptable use, as detailed in clause 7, will be at the discretion of the company. The company reserves the right to refuse such renewals.

4.9. The co-location of private equipment by the company will not be covered by clauses 4.4, 4.5, or 4.6. The company reserves the right to exercise a lien on any equipment co-located by the company, without the need to establish proof of ownership, in respect of any non payment for services provided for such co-location.

### **5. Cancellation**

5.1. In all cases, other than those notified to the customer under clause 4.6, work may start on the setup as soon as the order is processed. By agreeing to these terms and conditions of service and then placing an order the customer is agreeing to the service beginning before the end of the seven day cancellation notice period as defined in the The Consumer Protection (Distance Selling) Regulations 2000 and by placing an order the right to cancel will end.

5.2. In cases covered by clause 4.6 the customer will have the right of cancellation at any time during the first seven days, but only up to the time that we have indicated that the setup of the service will commence. After that time clause 5.1 will apply.

5.3. There is no right of cancellation under The Consumer Protection (Distance Selling) Regulations 2000 for the renewal of services previously provided.

5.4. All cancellations that are allowable within the applicable terms of The Consumer Protection (Distance Selling) Regulations 2000 will be entitled to a full refund within seven days of cancellation.

5.5. Your statutory rights are not affected by the content of these terms and conditions of service.

## 6. Description of Service

6.1. Users are provided with access to the services ordered with, where appropriate, the allocated game process or processes, up to the allocated number of permitted players or participants. Users of dedicated servers will have the server setup and exclusive use of the server allocated. Co-location customers will have their server located and setup.

6.2. Users are provided with the appropriate passwords, codes or information to allow the access referred to in clause 6.1, where appropriate.

6.3. The service will commence on the date that setup is completed and cease on the same date of the month that the renewal is due, as detailed in clause 4.1. If the service is renewed the service will cease on the following renewal date.

6.4. The company reserves the right to carry out the following tasks without notice, that may, or may not, interrupt service; routine maintenance, emergency repairs or maintenance, re-location of user services to alternative hardware where applicable, change of IP addresses.

6.5. The company will always give a minimum of 24 hours notice for a period of routine maintenance. We will provide an estimate of the duration of the maintenance window, but this will be an estimate and the routine maintenance time may fall outside this estimated duration.

6.6. The company will attempt to provide the service to the user without interruption wherever practicable. We will respond to any support tickets raised within 24 hours and where there has been an interruption in service we will inform the user of the reason where we are able to establish the reason. We will raise any issues that are concerned with the level of service by our Internet Service Provider (ISP) with that provider within 24 hours. If service is interrupted due to our fault, or the fault of our ISP, for 24 hours or longer, we will extend the period of service to cover the period of interruption for each day, or part thereof.

6.7. We will not interrupt the service for longer than 24 hours in any calendar month for routine maintenance. We will attempt to schedule such service in periods that we judge to be of light use. Any period that we interrupt the service in excess of 24 hours in any calendar month will be deemed emergency maintenance and the extension of the service as in clause 6.4 will apply.

6.8. The company is not responsible for any interruption of service that falls outside clauses 6.4 or 6.5. This includes external illegal "attacks" on the system or systems, whereby the system or systems need to be shut down for their own protection. In such cases we may decide to offer extensions of service, but this is entirely at the discretion of the company.

6.9. The company will not be responsible for saving or backing up any data related to user files or operation. This is the sole responsibility of the user.

6.10 The company will be responsible for providing support for issues that are directly related to the services described at 6.1 and 6.2. Any support outside these services is at the discretion of the company. The company is not liable for services outside our control and has no obligation to provide support in this respect.

## 7. Acceptable use

7.1. Services are not allowed to be sold, lent, hired or transferred to a third party without the express permission of the company.

7.2. Use of services to host, provide, distribute, or use the following material is strictly prohibited, including the content of dedicated and co-located equipment: 7.2.1. Illegal material, including; copyrighted works, un-licensed material and any material that contravenes any local, national, or international legislation applicable in the country of the company or user.

7.2.2. Pornographic or adult erotic material of any nature, but not confined to images.

7.2.3. "Warez", or other such similar content.

7.2.4. Spam, unsolicited mail and the creation of any data designed to interfere with the operation of any internal or external system or service.

7.2.5. Abusive, racist, homophobic, or discriminatory language, or content.

7.2.6. Material designed for, or resulting in, any malicious or disruptive operation.

7.2.7. Links or directions that contain or mention any prohibited content that is referred to in clauses 7.2.1, 7.2.2, 7.2.3, 7.2.4, 7.2.5, or 7.2.6.

7.3. The company is unable to guarantee assistance with plug-ins. We will, however, try our best, wherever possible, to accommodate plug-ins, where we are satisfied that they do not affect performance of other services.

7.4. Users are responsible for the fair usage of bandwidth. Where the company considers that excessive use of bandwidth has taken place the user will be liable for the full cost of that use.

7.5. The company reserves the right to suspend or terminate the services of any user who is in breach of any section of the acceptable use clauses. In such a case the user will have no right to any refund.

## **8. Indemnity and Limitation of Liability**

8.1. You agree to indemnify and hold Racksrv Communications and its affiliates, officers, agents and other partners, and employees, harmless from any claim or demand, including legal fees, made by any third party due to, or arising out of, content you submit, post or transmit through the service, your use of the service, your connection to the service, your violation of the terms and conditions of service, or your violation of any rights of another.

8.2. You agree that Racksrv Communications shall not be liable for any direct, indirect, incidental, consequential or exemplary damages, including, but not limited to, damages for loss of profits, goodwill, use, data, or other intangible losses, resulting from; the use or the inability to use the service, the cost of procurement of substitute goods or services, unauthorised access to or alteration of your transmissions or data, conduct of any third party on the service, any other matter relating to the service.

## **9. Disclaimers**

9.1. You acknowledge and agree that your use of the service is at your sole risk, where the service is provided on an "as is" and "as available" basis. 9.2. You acknowledge and agree that, to the maximum extent permitted by law, the company disclaims all warranties, conditions and other terms of any kind, whether express or implied, including, but not limited to any implied term of merchantability, satisfactory quality, fitness for particular purpose, and any term as to the provision of services to a standard of reasonable care and skill or as to non-infringement of any intellectual property right.

9.3. You acknowledge and agree that the company makes no warranty or representation that the service will meet your requirements or the service will be uninterrupted, timely, secure, or error free.

9.4. You acknowledge and agree that the company makes no warranty or representation that the results that may be obtained from the use of the service will be accurate or reliable or that any errors in software will be corrected.

9.5. You acknowledge and agree that the company makes no warranty or representation that the quality of any products, services or information, or any other material purchased, or obtained by you through the service will meet your expectations.

9.6. You acknowledge and agree that any material downloaded or otherwise obtained through the use of the service is done at your own discretion and risk and that you will be solely responsible for any damage to your computer system or loss of data that results from you downloading or obtaining any such material.

9.7. You acknowledge and agree that no advice or information, whether oral or written, obtained by you from the company, its officers, agents, partners, or employees, or from the service shall create any warranty or other obligation not expressly stated in the terms and conditions of service.

## **T&C of Service Acceptance**

When placing an order and being presented with the T&C of Service, by selecting 'I Agree to the Terms and Conditions' you are acknowledging that you have both read and agreed to all of the above, if you do not agree with the T&C of Service you must click 'back'.