Terms Of Services (TOS)

As a customer of Shine Servers LLP you must agree to this written contract upon purchase of any of our services. As a customer you hold the right to add additional services at any time via any of the methods and agree to pay in advance for them whether they be one 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. Emails confirmed by both parties shall suffice.

Invoices, Payment.

Shine Servers LLP will invoice Customer for Fees and Expenses monthly; provided, however, Shine Servers LLP may invoice Customer for Fees and Expenses associated with Service(s) provided pursuant to a customers request immediately upon Shine Servers LLP provision of such Service(s). Customer acknowledges that Shine Servers LLP 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 4 (Four) days after they are due, shall be terminated and any associated services including any data stored on the service will be wiped. Expenses shall be included on an invoice only to the extent that the actual amount of Expenses is known to Shine Servers LLP at the time the invoice is issued, and Expenses for which an actual amount is not known to Shine Servers LLP at the time an invoice is issued may be included on subsequent invoices. Unless otherwise agreed in writing by the Parties, the failure of Shine Servers LLP 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 Shine Servers LLP a blanket security interest in the customer's contract with their customers who are renting servers from them in the SmartDC data center and any equipment which they have colocated in the SmartDC data center on behalf of Shine Servers LLP in the event of non-payment by customer - customer agrees that Shine Servers LLP may take these customer contracts direct and or sell the equipment without a tortious interference claim or unlawful conversion claim to protect the credit balance owed Shine Servers LLP by customer and full ownership of the contracts shall transfer as well if balance is more than 60 days old. Any amounts collected from any sale of equipment above and beyond the balance owed will be returned to the customer within 10 business days.

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, Shine Servers LLP may terminate this Agreement or (at Shine Servers LLP 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 stated on the electronic mail notice.

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 Shine Servers LLP all Fees and Expenses earned or incurred by Shine Servers LLP 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 Shine Servers LLP.

Warranties of Shine Servers LLP.

Shine Servers LLP warrants that the Service(s) shall be provided in a workmanlike and professional manner. Upon Shine Servers LLP breach of the foregoing warranty, Customer's sole and exclusive remedy shall be to require Shine Servers LLP 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 Shine Servers LLP 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). Shine Servers LLP 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. Shine Servers LLP expressly reserves the right to suspend, interfere with, impair or terminate Service(s) as necessary for purposes of maintenance, upgrades or repair (either by Shine Servers LLP or by any supplier, partner or independent contractor of Shine Servers LLP) or in the event of any circumstance which Shine Servers LLP, in its sole discretion, deems necessary or desirable to prevent or remedy an impairment of, or harm to, the integrity or functionality of and Service(s) or any plant, services or facilities of any Indemnities (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.Shine Servers LLP 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 Shine Servers LLP 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 Shine Servers LLP 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 Shine Servers LLP, defamatory, indecent, obscene, offensive, threatening, abusive, hateful, tortuous 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 Indemnities 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 Indemnities or of any third party, or (iii) create, cause or contribute to the creation or causing of a hazard to any Indemnities or to any third party. Identification.

Shine Servers LLP 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. Shine Servers LLP reserves the right to remove, delete, disable or block transmission of any data or materials which Shine Servers LLP 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 Shine Servers LLP, its successors or assigns, subsidiaries, officers, directors, employees, agents, independent contractors, licensees, licensors, suppliers and customers (excluding Customer) (collectively "Indemnities") against any and all claims, liability, loss, damage, or harm (including without limitation reasonable legal and accounting fees) suffered by such Indemnities (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 Indemnities 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 Indemnities 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) Five hundred pounds, or (ii) the Fees paid by Customer to Shine Servers LLP during the two (2) months preceding the month in which liability arose for the Service(s) in connection with which such liability arose. Shine Servers LLP 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 Shine Servers LLP was advised of the possibility of same. Under no circumstances shall Shine Servers LLP 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 Shine Servers LLP more than one (1) year after the cause of action arose. Without limiting the foregoing:Customer acknowledges that Shine Servers LLP 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 Shine Servers LLP 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); Shine Servers LLP 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 Indemnities 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.

Shine Servers LLP 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 Shine Servers LLP 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, Shine Servers LLP 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 Shine Servers LLP in order for Shine Servers LLP 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 Measure.

If either Party shall be prevented from performing any portion of this Agreement (except the payment of money) by causes beyond its control, including labor 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 Indian , USA and/or The Netherlands. Venue for any actions arising under this Agreement shall vest exclusively in courts located in the United Kingdom, or The Netherlands to be decided at our discretion. Customer hereby submits to the jurisdiction of the aforementioned courts, and agrees that it will not assert lack of personal jurisdiction as a defense 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 favorable 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 Shine Servers LLP, 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 Shine Servers LLP prior written consent. Any attempted assignment without Shine Servers LLP'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 and acknowledged by signature of receipt.

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.

Venue.

The customer agrees that the exclusive venue for litigation shall be in the United Kingdom (Scottish or English court to be chosen at our discretion) or The Netherlands (again, choice at our discretion). All lawsuits shall occur here and customer agrees that any judgments may be domesticated to their local court of appropriate jurisdiction to enforce the judgment.

Acceptance.

Payment of customer of the first month's fees shall constitute acceptance of this agreement.

File transfers/migrations

On requesting a website transfer or server migration performed by Shine Servers LLP staff team, the requesting client is bound to the following terms unless exemption is stated in writing by an administration member:

➢ Client understands that Shine Servers LLP takes no responsibility for damage or corruption of files
➢ Client accepts that no member of Shine Servers LLP can be held liable for transfer issues or delays
➢ Client understands that the transfer/migration only covers the transfer of files and databases
➢ Client may be responsible for performing some actions to get the Virtual server/website to a working condition
➢ Client agrees that all website transfer/server migration charges are non-refundable

Any client who requests a transfer but openly disagrees to any of the aforementioned terms will have their transfer request denied. Clients are bound to the above terms in the following cases including but not limited to:

➢ Client purchases a website transfer when ordering a Shared Hosting plan
➢ Client is dissatisfied with server performance and requests transfer to a different server
➢ Client requests a package upgrade that requires a transfer to a new server

Cancellations/Refund/Exchange Policy.

Shine Servers LLP reserves the right to cancel the account at any time with or without notice.

Customers are entitled to apply for a refund up to 24 hours after their paid service is first activated. This policy does not apply to our Dedicated Hosting, however exceptions are made for hardware faults. Refunds do not include any fees associated with Software Installations performed by Shine Servers. Refundees will be charged a standard rate of £0.10 per GB transferred within the 24 hour time period, this will be taken into consideration and deducted when a refund is given. Shared Hosting Customers & Resellers Hosting Customers are able to apply for a refund, however the price of the domain name will not be included. This policy also applies to package transfers.

➢ Any refunds requested by a client whose product/service is working perfectly, or is not working correctly due to the fault of the client, will not be accepted.
➢ Only first-time accounts are eligible for a refund. For example, if you've had an account with us before, cancelled and signed up again, you will not be eligible for a refund or if you have opened a second account with us.
➢ Any licensing product/services are not eligible for the refund.
➢ If you are terminated due to a violation of our terms of service you agree that you will not receive any partial refunds and that this shall be considered a reasonable estimate of the liquidated damage and not a penalty.

Backups and Data Loss

Your use of the service is at your sole risk. Shine Servers is not responsible for files and/or data residing on your account. You agree to take full responsibility for files and data transferred and to maintain all appropriate backups of files and data stored on our servers.

Hosting Acceptable Use.

Shared hosting for websites may only be used for lawful purposes. Storage or transmission of any materials in violation of Indian Federal law or in violations of Netherlands Federal law is strictly prohibited. This includes, but is not limited to:

- ➢ Copyrighted Material
- ➢ Material deemed threatening, obscene, or harmful by Shine Servers Administration

On purchasing your product/service, the customer agrees to take full responsibility for any content on their designated user, this includes dismissing any claims of another party having access to their user and uploading illegal material.

The customer agrees to indemnify and hold harmless Shine Servers from any claims resulting from the use of our services. Use of our services to infringe upon any copyright or trademark is prohibited. This includes but is not limited to unauthorized copying of music, books, photographs, or any other copyrighted work. The offer of sale of any counterfeit merchandise of a trademark holder will result in the immediate termination of your account. If you believe that your copyright or trademark is being infringed upon, please email abuse@shineservers.com. If the request is of a licensing issue, we may require further documentation.

Examples of unacceptable material on all Shared Hosting, Reseller Hosting, VPS & Dedicated Servers includes: IRC Bots, Pirated Software / Warez hosting,Rapidleech/Link Generators/Seedbox/Torrent Scripts, image filedump, or banner-ad services (similar to rapidshare, photobucket, or commercial banner ad rotation), topsites, commercial audio streaming (more than one or two streams), Video Streaming, Escrow, High-Yield Interest Programs(HYIP) or related sites, Investment sites (FOREX, egold exchange), sale of any controlled substance without prior proof of appropriate permit(s), AutoSurf sites, Bank Debentures, Bank Debenture Trading Programs, Prime Banks Programs, lottery sites, muds / rpg's, hate sites, hacker focused sites/archives/programs, or sites promoting illegal activities, IP Scanners, Brute Force Programs, Mail Bombers and Spam Scripts.

Potential harm to minors is strictly forbidden, including but not limited to child pornography or content perceived to be child pornography (Lolita). Any site found to host child pornography or linking to child pornography will be suspended immediately without notice. Resellers, we will suspend the site in question and will notify you so you may terminate the account. We will further monitor your activity; more than one infraction of this type may result in the immediate termination of your account. Direct customers, Your services will be terminated with or without notice.

Violations will be reported to the appropriate law enforcement agency. It is your responsibility to ensure that scripts/programs installed under your account are secure and permissions of directories are set properly, regardless of installation method. When at all possible, set permissions on most directories to 755 or as restrictive as possible. Users are ultimately responsible for all actions taken under their account. This includes the compromise of credentials such as username and password. It is required that you use a secure password. If a weak password is used, your account may be suspended until you agree to use a more secure password. Audits may be done to prevent weak passwords from being used. If an audit is performed, and your password is found to be weak, we will notify you and allow time for you to change/update your password.

Client Responsibilities

On registering your service you accept full responsibility for any content on your service. These responsibilities include maintaining proper loads and monitoring and keeping your services on or under your designated quotas. Through registering your server you also agree that you are the sole owner of your service, therefor you take full responsibility for any illegal or prohibited content found on your service.

Reseller Responsibilities

Resellers are responsible for supporting their clients. We (Shine Servers LLP) do not and will not provide support to Reseller's Clients . If a reseller's client contacts us, we reserve the right to place the client account on hold until the reseller can assume their responsibility for their client. All support requests must be made by the reseller on their clients' behalf for security purposes. Resellers are also responsible for all content stored or transmitted under their reseller account and the actions of their clients'. We (Shine Servers LLP) will hold any reseller responsible for any of their client's actions that violate the law or the terms of service.

Flooding/DDoS/DoS scripts

Scripts that send a TCP/UDP flood, or any form of denial of service attacks to a remote or local server is not tolerated for any reason on our hosting plans. If any Port flood or Distributed Denial of Service attack script is found on a server, it will be terminated without prior notice or warning after evidence is gathered to form our case again you (the client).

Streaming Software

For resource and connection abuse reasons, streaming software is not allowed on our shared hosting, virtual private server and budget Dedicated Servers plans. If a server is found abusing resources while running streaming software, it may result in suspension of the service for a period time without any refunds.

Virus, MalWare & SpyWare distribution

If a server is found hosting, distributing and (or) hosting any of the following Virus', MalWare, SpyWare and any other harmful products reported to us it will lead to immediate termination of your service(s).

Data searches and removal

Shine Servers LLP staff agree to respect your privacy and will not go through the files on your service, however exceptions may be made in serious cases including but not limited to:

> ➢ Your service is using high resources and causing other users distress
> ➢ A DMCA notification is received, and must be verified (we will not modify or remove any files in this case)
> ➢ We have strong suspicion that you are running illegal attack software
> ➢ You have requested assistance via a Support Ticket
> ➢ You have given us expressed permission to search/modify your files

Network Uptime.

Please note that 99.99% uptime assurance does not include scheduled and emergency maintenance. Scheduled maintenance notices are sent 7 days prior while emergency maintenance notification is sent atleast 24 hours prior to execution. Network uptime is also not effected by hardware related issues.

Agreement Document Revisions.

This agreement shall be modified from time to time by Shine Servers LLP and the current version shall be posted on the Shine Servers LLP website in a viewable cache method. If customer does not agree to the new terms - customer should cease utilizing the services at the next term.

This document was last revised: FEB 9, 2013 at 01:21AM GMT.