



WEBHOSTING SERVICE TERMS & CONDITIONS

1. DEFINITION

1.1. The following terms shall respectively have the following meanings:

- (i) "Terms & Conditions" means the Web Hosting Terms & Conditions or any Service Agreement (where the services include inter alia the Terms & Conditions), as the case may be, that LIQUID STUDIOS have entered into with the Customer and which contains all the details necessary for the provision of the Service.
- (ii) "Commencement Date" means: the date on which LIQUID STUDIOS sends to the customer's email address as indicated in the contract form, the credentials to access the Webhosting system.
- (iii) "Customer" means the person named on the Order Form.
- (iv) "Extended Term" means the further monthly periods for which the Agreement shall be automatically extended beyond the Initial Term; when applicable
- (v) "Order Form" means the document or electronic application, as the case maybe that when signed or accepted by the Customer and LIQUID STUDIOS will bind the Customer and LIQUID STUDIOS to the stipulated terms and conditions.
- (vi) "Techinvest Group" means the group of companies consisting of LIQUID STUDIOS LIMITED (C26814) and all of its subsidiaries and associated companies;
- (vii) "Initial Term" means the initial period of the Agreement, which is indicated therein and which starts to run from the Commencement Date;
- (viii) "Schedule of Charges" means the list of any and all fees and charges related to the Service, as published by from time to time;
- (ix) "Service" means the Hosting service;
- (x) "LIQUID STUDIOS" means LIQUID STUDIOS LIMITED (C 26814) or a company that forms part of the Techinvest Group and shall be construed accordingly.

2. ACCEPTANCE OF ORDER

2.1. LIQUID STUDIOS will only be bound by the order shown on the Order Form when it has been signed or approved by the Customer and accepted by LIQUID STUDIOS in writing. LIQUID STUDIOS reserves the right to accept or refuse the Customer as its subscriber. LIQUID STUDIOS reserves the right to accept orders in electronic format, through the provision of digital signatures when the latter become legally acceptable. In the case of an already existing service prior to the 31st March 2011, LIQUID STUDIOS is bound by the original order or request agreed between both parties as evidenced by correspondence between the parties leading to the provision of the Service or services to the Customer.

2.2. The relationship between the Registered Subscriber (“Customer”) and LIQUID STUDIOS, bearing company registration number C 26814 (“LIQUID STUDIOS”), for the provision of the Service, shall be regulated by the terms and conditions of Web Hosting Service below (“Conditions”).

2.3. These Conditions shall, together with the Schedule of Charges and Order Form form an integral part of the Agreement and shall have the force of law between the parties.

2.4. Use of the Service & payment of invoices shall be considered as acceptance of these Terms & Conditions.

3. SERVICE DESCRIPTION

3.1 The Service consists of the website hosting package with the specific configuration which the Customer has selected or is going to select through the Service Interface. The Customer acknowledges and understands that important service limitations (including bandwidth limitations and other capacity matrices), pricing (Including pricing for optional Services, payment terms and other conditions relating to the Services are conveyed through the Service Interface and are therefore incorporated in the Agreement and in the Terms and Conditions. Apart from the hosting package, the Customer may also apply for an internet domain registration. In this case LIQUID STUDIOS shall act as an intermediary between the Customer and the internet registrar. When applying for an internet domain name, the Customer must follow and is bound by the general and specific registration terms and conditions as may be amended from time to time. Registration terms and conditions are available online from <http://www.enom.com/terms/agreement.asp>

4. CONNECTION TO THE SYSTEM

4.1 The Service provided by LIQUID STUDIOS is provided through a third party infrastructure which is shared by all users of the Service. The use of the Service by the Customer may be terminated or suspended indefinitely if the use of the Service degrades the ability of LIQUID STUDIOS to provide the Services to other users of the Service.

4.2 LIQUID STUDIOS may change the Service including but not limited to, access procedures, hours of operation, commands, documentation, and services offered (including their description, terms and conditions). Notification of any such changes will be provided to the Customer prior to the proposed change; provided that if any such change is of an urgent nature, notification shall be made to the User as soon as is reasonably practicable. Such notification shall be made, in LIQUID STUDIOS’s discretion, either by electronic mail to the Customer’s e-mail address or by post to the address provided by the Customer to LIQUID STUDIOS. Notification can also be made via adverts in the media. By becoming a subscriber to the Service and/or accessing and/or using the Service, the Customer acknowledges being aware of such changes and agrees to be bound by and adhere to them.

5. PROPER USE OF THE SERVICE

5.1. The Customer acknowledges that he/she may only use the Service for lawful purposes. Without prejudice to the generality of the foregoing, the Customer agrees that:

(a) he/she shall not use nor authorize or permit any other party to use the Service to receive, transmit or store material which is in violation of any law or regulation, which is obscene, pornographic, threatening, menacing, offensive, defamatory, in breach of confidence, in breach of any intellectual property rights (including copyright), or is otherwise unlawful;

(b) he/she shall not transmit any electronic material (including viruses) through the Service which shall cause or is likely to cause detriment or harm, in any degree, to computer systems owned by LIQUID STUDIOS, third parties or other Internet users;

(c) his/her account is to be used by a single user only and the Customer will not allow simultaneous access using the same log-in;

(d) as the registered user of the account he/she is responsible for his/her account and he/she will keep the password secure and not let it become public knowledge and will not be stored anywhere on a computer in plain text;

(e) if the password becomes known to any other unauthorized user he/she will either change the password by using the facilities provided by LIQUID STUDIOS on-line or inform LIQUID STUDIOS immediately;

5.2 Any attempt on the part of the Customer to access or modify unauthorised computer system information or to interfere with normal system operations, whether on the equipment of LIQUID STUDIOS, third party, or of any computer system or network that is accessed via LIQUID STUDIOS's communication services, will result in the immediate termination of the Customer's Services. These unauthorised activities include, but are not limited to: guessing at or using passwords other than the User's own, sharing the Customer's own password(s) and account(s) with others not authorised by LIQUID STUDIOS to use said password(s) and account(s), accessing or attempting to access information that does not have public access permissions, and accessing any computer system on which the Customer or the Public is not welcome.

5.3 Netiquette - The Customer acknowledges that there is certain etiquette ("netiquette") which he/she agrees to observe when using the Service. The Customer agrees to abide by the rules of netiquette including but not limited to the following rules:

a) the Service shall not be used to send unsolicited bulk and/or commercial messages over the Internet (known as "spamming")

b) the Service shall not be used for the distribution of Internet viruses, Worms, Trojan Horses or other destructive activities, including distribution of information regarding the creation and distribution about these destructive activities.

c) The Service shall not be used to engage in activities that are illegal, including advertising, transmitting or otherwise making available pyramid schemes, fraudulently charging credit cards and pirating software.

d) The service shall not be used to engage in activities, whether lawful or unlawful that LIQUID STUDIOS deems to be harmful to its subscribers, operations, reputation, goodwill or customer relations.

6. LIABILITY

6.1. LIQUID STUDIOS will use reasonable endeavours to provide a prompt and continuing service as described in this Agreement but will not be liable for *inter alia*:

(a) loss of data;

(b) loss or damage of software or hardware;

(c) loss or liability resulting from access delays or access interruptions;

(d) loss or liability resulting from computer viruses;

(e) loss or liability resulting from data non-delivery or data misdelivery;

(f) loss or liability resulting from any errors, omissions, or misstatements in any and all information, goods, or services obtained on or through the Service;

and

(g) any error or omission of the Customer.

6.2 LIQUID STUDIOS specifically excludes any warranty as to the accuracy, content or quality of information or software obtained through its Service.

6.3 Save as expressly set out herein, all conditions or warranties which may be implied or incorporated into this contract by law or otherwise, including but not limited to those of merchantability or fitness for a particular purpose, are hereby expressly excluded to the extent permitted by law. In no circumstances whatsoever will LIQUID STUDIOS be liable for economic, indirect or consequential loss.

6.4 LIQUID STUDIOS is not responsible for the Customer's personal files, website or e-mail box residing on LIQUID STUDIOS's or third party systems. The Customer is responsible for the independent backup of his/her data stored on LIQUID STUDIOS's or third party systems.

7. SPECIFIC PROVISIONS

7.1 Without prejudice to anything herein, the Customer acknowledges that email and/or online communication systems (chat, account notices, etc.) will be the primary means of communication between the Customer and LIQUID STUDIOS. The Customer acknowledges that that it is his/her responsibility to maintain a current email address and physical mailing address in the contact information. Any failure to respond to a communication from Liquid Studios may result in suspension or cancellation of Services without any refund, if any.

7.2 The Customer represents and warrants as follows:

a) he/she is lawfully entitled to use, display, possess or access the data upload, linked to, framed or otherwise posted on the Customer's website by him/herself or by the users of the Customer's website;

b) that the Customer's website and the use of the Services will not infringe the intellectual property rights of any third party;

c) that the Customer's website and the use of the Services will not violate any laws, including, but not limited to laws related to unsolicited commercial email, child pornography, collection of identifying information, consumer protection and privacy;

d) that neither the Customer nor those who access the Customer's website will upload any worms, viruses or malicious code to the servers which provide the Service;

and

e) that the Customer will not allow any unauthorized third parties to access the account which he/she uses to access the Services.

8. DATA PROTECTION

8.1. Insofar as LIQUID STUDIOS processes personal data relating to the Customer, LIQUID STUDIOS shall only process it in accordance with the provisions of the Data Protection Act (Chapter 440 of the Laws of Malta) as may be amended from time to time. By entering into the Agreement the Customer is deemed to have consented to the processing of his/her personal data by LIQUID STUDIOS as further detailed in this Condition.

8.2. LIQUID STUDIOS shall process the Customer's personal data for the following purposes:

- (i) to provide him/her with the Service;
- (ii) to communicate with him/her on any matter relating to the Service;
- (iii) to prevent and detect fraud;
- (iv) to protect itself against current and / or future loss of revenue;
- (v) for audit and debt collection; and
- (vi) for statistical purposes.

8.3. LIQUID STUDIOS may sub-contract to third parties certain aspects of the Service or engage them to provide services (for example, credit reference agencies (in accordance with these Conditions) and market research services) to it. In such cases, LIQUID STUDIOS may need to share personal information with such third parties.

8.4. LIQUID STUDIOS undertakes to ensure that all companies within the Techinvest Group as well as any and all third parties to whom personal data is disclosed will only process the personal data according to LIQUID STUDIOS's instructions and on LIQUID STUDIOS's behalf, and may further only use such data to the extent to which LIQUID STUDIOS is entitled. All such companies and third parties will further be required by LIQUID STUDIOS to meet the requirements of the data protection legislation to keep the information secure.

8.5. LIQUID STUDIOS may, for accurately carrying out the Customer's instructions, for training purposes and in order to improve the quality of LIQUID STUDIOS's customer services, occasionally monitor and / or record calls made to LIQUID STUDIOS's customer service. Any such recordings shall remain LIQUID STUDIOS's sole and exclusive property.

8.6. LIQUID STUDIOS may further process the Customer's personal data for direct marketing purposes, that is to inform the Customer by mail, telephone, automatic calling machines, fax e-mail, short messaging service (sms), or other electronic means, about products, services, new packages and offers provided by LIQUID STUDIOS or by selected third parties, which may be of interest.

8.7. Should the Customer not wish LIQUID STUDIOS to process the Customer's data for purposes concerning such direct marketing, the Customer may object to this in writing to LIQUID STUDIOS LIMITED, Business Centre 219-221, Parilja Street, St.Venera SVR1936. The Customer may further send a written request to this address should he/she wish to exercise his/her rights, in accordance with the Data Protection Act 2001, to access his/her personal data processed by LIQUID STUDIOS and to request its correction, if necessary. The Customer is requested to advise LIQUID STUDIOS of any changes occurring in the data provided in order that LIQUID STUDIOS may be able to take all reasonable measures to keep LIQUID STUDIOS's records in his/her regard correct and up-to-date.

8.8. The Customer agrees that any personally identifying information provided by the Customer shall be used by LIQUID STUDIOS according to LIQUID STUDIOS's privacy policy posted at <http://www.liquidstudios.com.mt>.

9. FEES AND CHARGES

9.1. The Customer shall be charged for any applicable installation fees and other charges as well as for use of the Service at the rates established by LIQUID STUDIOS from the date on which LIQUID STUDIOS enables the Service under the Agreement. The customer will also be charged for any further purchase done that is requested after proper acknowledgement from LIQUID STUDIOS.

9.2. All rates, charges, fees and penalties applicable to the Service are listed in the Schedule of Charges (found on our website). All such amounts are indicated exclusive of all taxes imposed or levied, and any such taxes must therefore be paid in addition to the indicated amounts. The Schedule of Charges may be varied and / or amended by LIQUID STUDIOS from time to time.

9.3. Any and all charges related to the use of the Service shall be invoiced to the Customer by LIQUID STUDIOS monthly, or at the agreed billing period, in advance, depending on the Customer's

agreement with LIQUID STUDIOS, and are to be settled by the Customer upon receipt of such invoice (the "Due Date"). LIQUID STUDIOS reserves the right to issue any back dated charges to the Customer for the Service provided to the customer by LIQUID STUDIOS. The Customer hereby undertakes to pay such charges for the Service even if they would have erroneously been omitted from any of his/her prior invoices.

9.4. In default of payment by the Due Date, LIQUID STUDIOS reserves the right to disconnect the Customer from the Service promptly and without notice. LIQUID STUDIOS further reserves the right to charge interest for late payment at the maximum rate allowed by law.

9.5. If any cheques, credit cards or standing orders that are provided to LIQUID STUDIOS are returned for insufficient funds or for any other reason, LIQUID STUDIOS shall be entitled to impose a penalty on the Customer.

9.6. LIQUID STUDIOS also reserves the right to carry out a credit check on the Customer at any time. In default of payment of any amount due to LIQUID STUDIOS, LIQUID STUDIOS shall be entitled to give the Customer's details to one or more credit reference agencies, their members and any third party to whom LIQUID STUDIOS is obliged or authorized to transfer such credit-related data by or under any law. If at any time the Customer fails to meet LIQUID STUDIOS's credit conditions, LIQUID STUDIOS may further enforce any credit terms on the Customer's account, restrict the Service, only allow certain specified methods of payment and / or suspend the Service (or other services of LIQUID STUDIOS that LIQUID STUDIOS currently provides to the Customer) when the Customer reach the credit established until LIQUID STUDIOS receives the full payment of any and all charges that are due by the Customer. In the event of breach of any credit terms, the Customer will lose the benefit of any time granted for effecting payment and the Customer reserves the right to call in any pending dues with immediate effect and with interest according to law.

9.7. Should the Customer wish to query any amount invoiced to him/her by LIQUID STUDIOS, the Customer must notify LIQUID STUDIOS before the Due Date of payment as indicated on the invoice in question. During the period when LIQUID STUDIOS would be investigating such query, and provided that the Customer would have paid the portion of the invoiced amount that would not be in dispute, LIQUID STUDIOS will not disconnect the Service or divulge any credit-related data concerning the Customer to any credit reference agency or other third party before LIQUID STUDIOS notifies him/her of the conclusion of the said investigation and the Customer subsequently fail to pay any such amount due.

10. CANCELLATION / INTERRUPTION / SUSPENSION / TERMINATION OF THE SERVICE AND CONSEQUENCES THEREOF

10.1. The Terms & Conditions shall remain valid and in force for the Term chosen and agreed by both parties and for any subsequent Extended Term unless it is terminated in accordance with the provisions of this Agreement.

10.2. Should the Customer decide to terminate the Agreement prior to the expiry of the Initial Term or the Extended Term, as applicable, he/she shall not be entitled to reimbursement of any charges whatsoever (including but not limited to any connection fees and regular fees already paid) and shall be liable to pay the applicable penalty charges.

10.3. Upon termination, whether automatic or as contemplated in the previous subarticle:

- (i) The Customer must settle all outstanding charges listed on his/her account immediately;
- (ii) LIQUID STUDIOS shall stop providing the Service

10.4. Without prejudice to any right arising hereunder or by virtue of any other law or practice, LIQUID STUDIOS may at its discretion promptly terminate the provision of the Service to the Customer without the need of any prior notification in the event that the Customer:

(i) breaches any of the conditions laid out herein or any other agreement entered into with LIQUID STUDIOS;

(ii) fails to pay any amounts that he/she is liable to pay hereunder;

(iii) becomes insolvent or bankrupt, the Customer enters into any arrangement with creditors or legal action is taken or threatened against his/her property;

(iv) or another person at the Customer's premises have committed or may be committing any fraud against LIQUID STUDIOS or against any other person by using the Service or any related equipment;

(v) provides LIQUID STUDIOS with false, inaccurate or misleading information at any time during the duration of the Agreement.

10.5. The Customer is liable to pay all charges for the Service. If LIQUID STUDIOS discovers that the Customer received services from LIQUID STUDIOS without its permission, LIQUID STUDIOS will further charge for any usage charges relating to such services. If the Customer breaches the Agreement by committing fraud or illegal activity, the Customer shall be reported to the police, who will take the appropriate legal action.

10.6. LIQUID STUDIOS may also interrupt, suspend or terminate the provision of the Service without any prior notification in any of the following circumstances:

(i) in fulfilment of any instructions requested by governmental or regulatory authorities;

(ii) for the purposes of repair, maintenance, improvement of the network or other operational reasons;

(iii) for health and safety considerations; and

(iv) for any other reason beyond its control.

10.7. Where reasonably possible LIQUID STUDIOS shall provide adequate notice prior to the interruption, suspension or termination of the Service and where relevant it undertakes to restore the provision of the Service without unnecessary delay.

10.8. Should the Customer decide to reactivate the Service following termination, the Customer shall be required to settle all outstanding dues that he/she may have with LIQUID STUDIOS on his/her account as well as a reconnection charge.

10.9. LIQUID STUDIOS reserves the right to delete all the User's personal files, including without limitation mailboxes, after termination of this Agreement. Moreover, the Customer acknowledges that LIQUID STUDIOS is not obliged to return any data to the Customer, upon the termination of the Agreement. It is the responsibility of the Customer to download, make copies of and/or backup all data residing on the servers and other equipment which provide the Services and to do so within the bandwidth limitations of the Services. Any loss or corruption of data which occurs due to an interruption in the Services, regardless of the cause of the interruption, shall not be the responsibility of LIQUID STUDIOS and the Customer may, following the interruption in the Service, be required to upload the data to the servers and other equipment which provide the Services.

10.10. In the events contemplated under this Clause, the Customer agrees that

(i) no pre-paid fees will be refunded to him/her, and

(ii) LIQUID STUDIOS may take control of any domain name associated with the terminated Services, provided that such domain name was registered through LIQUID STUDIOS domain name registration services. It is understood that taking control of a domain includes but is not limited to, acts such as listing such controlling party as the "registrant" and/or "administrative contact" for the domain name and controlling the DNS settings for the domain name.

11. INTELLECTUAL PROPERTY RIGHTS

11.1 LIQUID STUDIOS owns and retains all intellectual property rights including copyright in the Service. Except for public domain material, all material displayed on, or downloaded from the Service is protected by intellectual property and copyright legislation, and may not be redistributed, transmitted, re-transmitted, copied, or published without the permission of the intellectual property right or copyright owner. The placement of material in any public posting area, or software library of LIQUID STUDIOS without the consent of the intellectual property or copyright owner is in violation of the law and this Agreement. The User specifically agrees not to upload, post or reproduce in any way any materials protected by intellectual property or copyright without the permission of the intellectual property or copyright owner.

12. AMENDMENTS

12.1. LIQUID STUDIOS may amend these Terms and Conditions and/or the Schedule of Charges at any time. Modifications made to this Agreement shall become effective thirty (30) days after the modifications are posted on LIQUID STUDIOS' website. The Terms and Conditions, including any updates or amendments thereto shall be constantly available on the website of LIQUID STUDIOS. The customer agrees to check the Terms and Conditions periodically. In all cases, should the Customer not wish to accept the proposed changes, he/she must, inform LIQUID STUDIOS in writing of such non-acceptance. Failure of notification will constitute an irrevocable acceptance of any such changes for as long as the Customer remains subscribed to the Service.

13. ASSIGNMENT

13.1. The Customer shall not assign or transfer the Agreement in whole or in part to any third party whomsoever, without the prior written consent of LIQUID STUDIOS LTD.

13.2. LIQUID STUDIOS may, for business reasons, assign or transfer any of its rights and obligations under the Agreement at any time at its sole discretion.

14 SEVERABILITY

14.1 The validity or unenforceability for any reason of any part of the Agreement, these Conditions, and/or the Schedule of Charges, shall not prejudice or affect the validity or enforceability of the remainder thereof vis-à-vis that party or in relation to the other parties.

15. FORCE MAJEURE

15.1 Without prejudice to any other provision contained in this Agreement excluding or limiting LIQUID STUDIOS's responsibility, LIQUID STUDIOS shall not be liable to the Customer for any loss or damage which may be suffered by the User due to any breach of these terms and conditions or failure on LIQUID STUDIOS's part to perform any obligation as a result of technical problems relating to the Service, termination of any licence to operate or use the Service, act of God, inclement weather, flood, drought, lightning or fire, earthquakes and volcanic eruptions, failure or shortage of power supply, strikes, lockouts, labour disturbances and industrial disputes of any kind, Government control, restrictions or prohibitions or any other Government act or omission whether local or national, any act or omission of any road transport authority, or of the operators of other telecommunication services, or of any other agencies or authorities, acts or omissions of the public authorities, war, military operations and riots, difficulties, delays or interruptions in the production or supply of equipment used in the Service, act or default of any supplier agent or sub-contractor, or any other similar or dissimilar cause beyond LIQUID STUDIOS's control.

16. INDEMNITY

16.1 The Customer hereby agrees to fully indemnify and to hold LIQUID STUDIOS harmless from and against any claim brought by any third party resulting from the use of the Service or the LIQUID

STUDIOS network by the User and in respect of all losses, costs, actions, proceedings, claims, damages, expenses (including reasonable legal costs and expenses), or liabilities, whatsoever suffered or incurred directly or indirectly by LIQUID STUDIOS in consequence of the Customer's breach or non-observance of any of the terms and conditions of this Agreement.

16.2 The Customer shall defend and pay all costs, damages, awards, fees (including any reasonable legal fees) and judgments awarded against LIQUID STUDIOS arising from the above claims and shall provide LIQUID STUDIOS with notice of such claims, full authority to defend, compromise or settle such claims and reasonable assistance necessary to defend such claims, at his/her sole expense.

16.3 The Customer acknowledges that LIQUID STUDIOS is unable to exercise control over the content of information passing over the LIQUID STUDIOS network or via the Service, and LIQUID STUDIOS hereby excludes all liability of any kind for the transmission or reception of infringing information of whatever nature.

17. JURISDICTION, APPLICABLE LAW, LANGUAGE

17.1. The Agreement shall be governed and construed in accordance with the laws of Malta. The parties irrevocably submit to the jurisdiction of the courts of Malta or any other competent tribunal at law in case of any dispute. In the event of any conflict between the English and the Maltese versions of The Agreement, the English version thereof shall prevail.
