



Terms & Conditions

COVE Business Technology Pty. Ltd. ("COVE") is committed to ensuring customers understand the terms and conditions of supplying services to them.

1. Definitions

- 1.1 "COVE" means COVE Business Technology Pty. Ltd.
- 1.2 "Customer" means the person or entity who ordered our services.
- 1.3 "Services" means any product(s) or service(s) the Customer has signed up to use. This can include, but is not limited to, the provisioning of space on one of our servers and a connection to and from the internet for web, email and FTP services to function at the level specified in the chosen service level, domain name registration and SMS services. These product(s) and service(s) are identified in full within the "sign up" and "welcome" emails COVE has sent after your request for service. The specific details of the Services can be found by logging in to MyCOVE or on our website.

2. Acceptance

- 2.1 The Customer signified acceptance of these Terms and Conditions, as well as our Privacy Policy, Acceptable Use Policy, and Customer Service Policy, when they submitted their order to COVE for Services, and that order was approved.

3. Term

- 3.1 The customer agrees to a month to month contract term for Services unless otherwise stated in the product or service offering (eg. domain names, special services with an agreed term) or otherwise agreed in writing. The month to month contract for services is automatically renewed each month in perpetuity subject to written cancellation by the Customer.

4. Availability of Services

- 4.1 While COVE will endeavour to provide continuous availability of all Services to the Customer, COVE will not be liable for any service interruptions or down time.
- 4.2 Scheduled maintenance will be performed at times which is deemed suitable by COVE which has the least noticeable impact on the Customer, and should it require the Services to be offline for greater than thirty (30) minutes COVE will post details of the scheduled maintenance at least two (2) days prior.
- 4.3 Unscheduled maintenance will be performed as required by COVE, and should the Services be offline for greater than thirty (30) minutes COVE will post details of the maintenance and any updates until it has been completed. Details of these events can be found at <http://status.cove.com.au>

5. Domain Name Registration and Renewal

- 5.1 The Customer acknowledges that COVE is a reseller for auDA accredited and .NZ accredited registrar Bottle Domains, and a reseller for ICANN accredited registrar Enom Inc.
- 5.2 COVE does not warrant or guarantee that a domain name application will be approved. The Customer should take no action in respect of the requested domain name(s) until they have been notified by COVE that the domain name(s) has been approved and is in the Customers name.
- 5.3 The registration of the domain name and the ongoing use of the domain name are subject to the relevant naming authority's terms of service and the Customer is responsible for ensuring awareness of these terms and that they are adhered to. The Customer waives any right to make claim against COVE in respect to a decision made by a naming authority to refuse registration or renewal of a domain name.
- 5.4 The Customer acknowledges that COVE is not obligated to renew a domain name for the Customer, if the Customer has not confirmed to COVE that the domain name is to be renewed, or the invoice for renewal has not been paid in full. In these circumstances, COVE will not be held liable by the Customer for any loss or damages.
- 5.5 Domain name registration or renewal may be declined by COVE if the Customer is in breach of these Terms and Conditions or the Acceptable Use Policy, or the customer has other unpaid or unresolved fees.
- 5.6 It is the Customers responsibility to ensure that all contact details held by COVE in relation to the billing of domain names are kept up to date, as COVE will use these details to advise the Customer of any pending renewal.
- 5.7 Should the Customer choose to terminate all services with COVE, but does not transfer a domain name to another registrar, the Customer agrees that COVE may contact the Customer after the account closure to advise of any domain name renewal.

6. Limitation of Liability

- 6.1 COVE shall not be liable to the Customer for harm caused by or related to Customer's Service or inability to utilise the Service unless caused by gross negligence or wilful misconduct.
- 6.2 Neither Party shall be liable to the other for lost profits, direct or indirect, special or incidental, consequential or punitive, or damages of any kind whether or not they were known or should have been known.
- 6.3 Notwithstanding anything else in this agreement, the maximum aggregate liability of COVE, any of its employees, agents or affiliates, under any theory of law shall not exceed a payment in excess of the amount paid by the Customer for the Service in question for the six months prior to the occurrence of the event(s) giving rise to the claim.

7. Customer General Warranties and Undertakings

- 7.1 The Customer warrants that they will keep any passwords or sensitive information used with the Service in a secure location.

- 7.2 The Customer warrants that they hold and will continue to hold the copyright for data stored on COVE's servers, or that they are licensed and will continue to be licensed to use that data.
- 7.3 The Customer warrants that at the time of entering into this agreement they are not relying on any representation made by COVE which has not been expressly stated in this agreement, or on any descriptions or specifications contained in any other document produced by COVE.
- 7.4 The Customer warrants that all due care has been taken to ensure data integrity on COVE's servers. This includes an undertaking that the Customer will conduct computer virus scanning and other tests as necessary to ensure that the data uploaded by the Customer onto or downloaded by the Customer from the server does not contain any computer virus and will not in any way, corrupt the data or systems of any person.
- 7.5 The Customer agrees that they are solely responsible for dealing with anyone who accesses your data, and that you will not refer complaints or inquiries in relation to such access to COVE.

8. COVE General Warranties and Undertakings

- 8.1 COVE accepts liability for the supply of the Service to the Customer to the extent provided in this agreement.
- 8.2 COVE does not warrant that:
- a. The Services provided within this agreement will be uninterrupted or error free;
 - b. The Services will meet your requirements, other than as expressly set out in this agreement;
 - c. The Services will not be subjected to external hacking attempts, viruses, worms, denial of service attacks, or other persons gaining unauthorised access to the Service or internal COVE systems.
- 8.3 COVE does not make or give any express or implied warranties including, without limitation, the warranties of merchantability or fitness for a particular purpose, or arising from a course of dealing, usage or trade practice, with respect to any goods or services provided under or incidental to this agreement.
- 8.4 No oral or written information or advice given by COVE or its resellers, agents, representatives or employees, to the Customer, shall create a warranty or in any way increase the scope of the express warranties hereby given, and the Customer should not rely on any such information or advice.
- 8.5 In no event will COVE be liable to the Customer for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.

9. Fees and Credit Management

- 9.1 In relation to fees for Services:
- a. Fees for Services ordered by the Customer shall begin on the date of the initial order and shall be pro-rated to include all days until the first day of the next month, and the chosen billing cycle in advance. This may be monthly, quarterly, semi-annually, annually or biennially.

- b. The first day of the month will serve as the anniversary date for all future billings including one time fees, upgrades, additional services, cancellations and service credits, unless the Services only allows annual or biennially billing cycles (eg. domain name registrations, etc).
- c. Fees are due in advance of the billing cycle and will be invoiced to the Customer seven (7) days prior to the due date. If a credit card is stored on file, it will be charged three (3) days prior to the due date, to allow sufficient time for any potential issues (such as insufficient funds, expired cards, etc) to be rectified before the due date.

9.2 In relation to fees for upgrades to Services:

- a. Upgrades ordered by the Customer on the billing anniversary date will be billed for a full cycle and will continue each cycle on the anniversary date, unless the Services only allows annual or biennially billing cycles (eg. domain name registrations, etc).
- b. Upgrades ordered by the Customer after the billing anniversary date will be pro-rated to the next anniversary date. Future fees will appear as the new plan from your existing anniversary billing date.
- c. Fees for upgrades will be payable within seven (7) days of the upgrade taking place. If a credit card is stored on file, it will be charged three (3) days prior to the due date, to allow sufficient time for any potential issues (such as insufficient funds, expired cards, etc) to be rectified before the due date.
- d. Additional fees may be payable for upgrades where manual work is required by COVE to process the upgrade request (eg. single hosting to reseller hosting, intercontinental transfers, etc).

9.3 In relation to fees for downgrades to Services:

- a. Downgrades will be processed when the request is received by COVE from the Customer, unless otherwise specified in the request.
- b. A credit will be issued to the Customer's account for the difference of any pro-rated pre-paid amount minus the cost of the new plan pro-rated on the chosen cycle.
- c. A \$15.00 administration fee may be charged for a downgrade request at COVE's sole discretion.
- d. Additional fees may be payable for downgrades where manual work is required by COVE to process the downgrade request (eg. reseller hosting to single hosting, intercontinental transfers, etc).

9.4 Any fees paid for the setup or establishment of any Services will be automatically deemed as non-refundable.

9.5 Fees for one-off Services including, but not limited to, dedicated IP address, SSL certificates and data blocks, are due within seven (7) of the invoice being issued.

9.6 All published prices are inclusive of any government taxes and charges, unless otherwise noted.

- 9.7 The speed of provisioning new Services is reliant upon the Customer having paid any and all outstanding fees in full.
- 9.8 Failure to pay any fees may result in the account being referred to an external collection agency, which may include interest (calculated daily) and collection costs.
- 9.9 Accounts that are more than three (3) days past the due date will automatically attract an overdue fee of \$5.50 which will be payable on top of the invoice amount.
- 9.10 Accounts that are more than seven (7) days past the due date will be automatically suspended, and a reconnection fee of \$22.00 on top of any outstanding fees may apply to have the service restored.
- 9.11 Accounts which are not paid in full within fourteen (14) days of the due date will be automatically deleted from our servers.

10. Suspension and Termination of Services

- 10.1 COVE may suspend or terminate Services if:
- a. The Customer is found to be in breach of these terms and conditions;
 - b. The Customer is found to be in breach of the acceptable use policy;
 - c. The Customer has become insolvent or bankrupt;
 - d. The Customer has outstanding fees that are more than seven (7) days past the due date;
 - e. The Customer has outstanding fees that are more than fourteen (14) days past the due date;
- 10.2 From time to time COVE may be required to suspend or disconnect Services without notice, or deny access to the Service during a technical failure, modification or maintenance.
- 10.3 COVE may decide at its sole discretion to advise a Customer that their service will be terminated by giving thirty (30) days written notice. In this circumstance, COVE will refund any pre-paid fees for Services on the account.
- 10.4 If a Customer's account is closed for any reason, the Customer must pay all outstanding charges by the due dates.
- 10.5 COVE is under no obligation to provide the Customer with a copy of the data stored on our servers if COVE has suspended or terminated access to the service for any breach of terms 10.1 "a" through "e". In this circumstance, a copy of the data may be provided to the Customer for an additional fee.

11. Cancellation

- 11.1 The Customer can request cancellation of any Services with us for any reason by logging in to MyCOVE and submitting a secure cancellation request.

- 11.2 Any pre-paid fees for Services past the current billing month will be refunded, except the Services that are not eligible for a refund (eg. domain name registration, hosting accounts using the coupon "NO-REFUND", etc).
- 11.3 The Customer agrees to pay any and all outstanding fees upon cancellation of their Services.

12. Data Management

- 12.1 COVE will backup and archive the Customer's data on a regular basis for the purpose of disaster recovery.
- 12.2 In the event of hard disk failure or data corruption, COVE will restore data from the last known verified archive.
- 12.3 If all backup and archived data appear to be corrupt, the Customer should be prepared to upload the data to their account from a local copy, and setup all mailboxes and FTP accounts.
- 12.4 The Customer should always maintain a recent copy of all data at all times, as COVE will not be liable for incomplete, out of date, corrupt or otherwise incomplete data recovered from our backups and archives.
- 12.5 COVE takes automatic system backups of Everyday and Reseller packages two (2) times a week, being Wednesday and Sunday morning. COVE will also retain a weekly rotation of these backups.
- 12.6 COVE takes automatic system backups of Business and Business Reseller packages seven (7) times a week, being every morning. COVE will also retain a weekly rotation of these backups.

13. Changes

- 13.1 COVE may update these terms and conditions at any time. Should any change occur, we will advise the Customer by email and note the specific changes which have occurred, and provide thirty (30) days notice before any changes are enforced.
- 13.2 Our terms and conditions are made available by downloadable PDF, which contains a document reference and a version on each page for accuracy.

14. Use of Identity

- 14.1 The Customer agrees to use the COVE logo, company information and related services in accordance with approved marketing guidelines.
- 14.2 COVE agrees not to use a Customer name, logos or information without prior written consent of the Customer.

15. Entire Agreement

- 15.1 These terms and conditions constitute the entire agreement between COVE and the Customer, and it supersedes all prior oral or written agreements, understandings and representations.

16. Governing Law

- 16.1 The Customer agrees to abide by all local, state and federal laws pursuant to the Services delivered by COVE in Australia and the United States.
- 16.2 The Customer agrees that these terms and conditions are governed by the laws of Victoria, Australia, and agrees to the exclusive jurisdiction of the Courts of that state.