METAWAYS

**Terms and Conditions of Business
for Online Services**

Dated: 21.02.2012

Note:
This is a translation of our German T&Cs. The validity of our original German T&Cs takes strict precedence.

§ 1   Basic Principles

These Terms and Conditions of Business (T&Cs) apply to "Online Services" commissioned by a customer from Metaways Infosystems GmbH (hereinafter: Metaways). Metaways shall provide its services based on the following T&Cs, unless separate arrangements have been made by written agreement.

These shall also apply if Metaways is aware of other Terms and Conditions. An exception shall only be made to this provision if Metaways has expressly agreed to the other Terms and Conditions in writing.

Metaways has the right to expand on or amend the existing terms. Metaways customers will be informed of such amendments via the homepage (www.metaways.de) six weeks in advance. The revised, amended terms will become effective for the contractual relationship unless the customer appeals in writing within a period of four weeks of the notification or briefing. Should the customer appeal in due form within this period, Metaways may terminate the contract by the date on which the amended T&Cs would have become effective.

§ 2   Offer, Conclusion of Contract

1.   The contract between Metaways and the customer shall be concluded when Metaways accepts the customer's offer of contract. Acceptance is also implied if Metaways fulfils the incumbent contractual obligations.

2.   Should the customer amend his offer, this shall be regarded as a new offer to be accepted.

3.   Metaways is entitled to use the client and the order as a reference and to publish them accordingly either on its website or in any other form. Metaways shall only then not be entitled to exercise this right should the client object thereto at the time of the conclusion of the contract.

§ 3 Right of Revocation of Distance Selling Contracts in accordance with § 312 c BGB (German Civil Code)

1. Should the contract between Metaways and the customer, who is a consumer in the sense of § 13 BGB, be concluded via remote means of communication (letter, telephone, fax, internet, etc.), the customer may revoke his declaration of agreement in writing within two weeks without stating a reason or, if delivery of goods has been performed by Metaways, by returning those goods. The term begins 2 weeks from the date on which it is informed of the right of revocation and Metaways has fulfilled its other duties to inform in accordance with § 312 c para 2 BGB. If Metaways has already delivered the goods, the revocation period begins on the date on which the goods were accepted by the customer, or in the case of recurring deliveries, with the receipt of the initial partial delivery. The revocation period shall be deemed observed if the goods are returned or a notice of revocation is given within this period. The notice of revocation is to be addressed to:

    Metaways Infosystems GmbH
    Pickhuben 2
    20457 Hamburg

2. An effective revocation shall evoke a return obligation, i.e. the reciprocal exchange of services and benefits received. This may mean that the customer must nevertheless fulfill the contractual payment obligations for the period prior to the revocation.

3. The right of revocation shall expire early if the contract is fulfilled in its entirety by both parties at the express request of the customer, before the customer exercises his right of revocation.

§ 4 Content and Utilisation of a Created Web-Site

1. The content, form and purpose of the customer's web-site may not contravene any legal regulations nor infringe upon the rights of third parties or public convention or morality. This specifically includes infringement of copyright and the right to use a name with regard to third parties, and the provisions of data protection legislation.

2. The customer is obliged not to include any content of a pornographic nature or which glorifies or incites violence or criminal acts or promotes other such acts in any form and to refrain from offering or sending any other services containing pornographic content.

3. The customer is also obliged not to endanger the content or operation of the Metaways data centre by storing or sending data which may lead to such a risk. This includes both the nature and character of the data as well as its size and replicability.

4. Should the aforementioned provisions be contravened:

    -   the customer is obliged to pay Metaways a contractual penalty amounting to € 6,000.00 (six thousand euros), whereby each singular act shall be deemed an individual infringement;

    -   Metaways is entitled to delete or make inaccessible unauthorised content;

    -   Metaways may request compensation from the customer for any resulting damage or loss if the customer is responsible for the damage or loss. This compensation for damages is in addition to the aforementioned contractual penalty and does not exclude it;

- Metaways is absolved inter se of all claims by third parties arising from the breach of duty of the customer.

5. Metaways assumes no warranty for the transmission of data sent to the recipient. Metaways shall only assume warranty for the content and correct reproduction of web-sites in the customer's Internet presence in the event of gross negligence on the part of Metaways.

6. Should the customer exceed the agreed data storage or transfer volumes, Metaways is authorised to block access to the customer's pages and/or accounts and/or request a suitably appropriate sum for the exceedance.

7. Metaways assumes no warranty for any computer viruses or similar malware which may attack or damage the client. Where Metaways makes available anti-virus software, it is expressly stated that this also does not provide one hundred percent protection. It is therefore the duty of the customer to ensure that he has suitable and sufficient protection for his data as this cannot be guaranteed by Metaways who cannot be held responsible for potential damage or loss caused by a virus.

§ 5 Obligations of the Customer

1. The customer guaranties the accuracy and integrity of the personal details provided by him and any other information relevant to the contractual relationship. Metaways is to be informed immediately of any changes to the details provided.

   Should the customer not fulfill this duty, he is to compensate Metaways for any damage or loss arising as a result of this. In such an instance, Metaways also has the right to block the customer from the supplied service.

2. Should the customer make use of a free Metaways service, Metaways may delete the data held in that account without prior consultation if the account set up for that customer is inactive for a period of at least six months, i.e. the customer has not logged in via e-mail software or a web-browser. In this instance, Metaways is also entitled to block the account in question.

3. Should the period of inactivity as per the previous para 2 be longer that a year, Metaways is entitled to release the associated e-mail addresses in order that they be available for other customers. The customer shall still have access to his account via his customer number and a password, but as a result must select a new e-mail address. Metaways provides no guarantee of the availability of the previously selected address.

4. The customer is obliged to retrieve and store any form of received data. Metaways is not liable for any loss of data. Data protection is to be carried out using market-standard technology. The customer may create the necessary back up copies of the programs and in doing so does not contravene the user agreements. This does not apply if the customer has commissioned Metaways to carry out the back up.

5. The customer's e-mail addresses and domain names may not contravene any legal regulations nor infringe upon the rights of third parties or public convention or morality. In the event of such a contravention, Metaways is entitled to block access to the address or domain concerned and restore it to the appropriate body where applicable.

6. Metaways should be informed immediately should the customer's password be made known to third parties.

   Metaways is not liable for damage or loss caused by third parties who have gained access to personal passwords and is entitled to request damages and compensation for any liable loss of the customer's personal passwords in the event of misuse by a third party.

7.   It is the duty of the customer alone to carry out back ups of data and Metaways accepts no responsibility for the loss of any customer data. The back ups carried out by the customer are to take place using data storage media unrelated to Metaways. This does not apply if the customer has commissioned Metaways to carry out the back up.

8.   The use of programs, whether produced by third parties or made available by Metaways, is undertaken entirely at the customer's risk. He is to ensure its functionability and harmlessness and is liable for any damage or loss which may arise from the use of incorrectly functioning programs.

9.   Should the customer install faulty software which may in some way endanger or damage the operation of Metaways, Metaways is authorised to
     -     block access to the customer's account;

     -     remove the customer's web-site from the Internet;

     -     rectify the customer's security issues at cost;

     -     request compensation for damages from the customer to the amount caused by the program installation.

§ 6   Obligations of Metaways

1.   Metaways is responsible for ensuring that the server operated by Metaways is accessible. However, Metaways accepts no liability for technical errors or hardware faults on servers installed at Metaways by the customer.

2.   Should the customer opt for a high availability solution, the server must be available for 99.9% of the year. Server accessibility for other solutions must be 99.0%.

     Should the assured availability fall below a specified percentage, the customer has the right to reduce the annual fee by this percentage.

3.   Lack of availability due to technical or other causes beyond the control of Metaways, e.g. extreme force or culpable actions of a third party, is exempt from the annual average availability.

     Down-time notified by Metaways, or agreed with or requested by the customer, is also excluded from the level of availability.

     Metaways is specifically entitled to carry out 4 hours of maintenance and/or technical improvements to software and systems (planned down-time) per month. This does not apply to high availability solutions unless there are particular reasons why Metaways must intervene on behalf of the customer.

4.   The contractual obligations of Metaways may be restricted for the purposes of risk prevention. Such dangers specifically include the threat of poor network security, its potential loss of integrity and other serious network-related issues.

5.   Metaways has the right to further develop the offered services within the framework of technological progress, and to replace older services through ones which have been further developed.

     This includes the implementation of Patches and Upgrades for the applied software components (for example system used MySQL, PHP, Apache and Typo3). The Customer is obliged to check the function ability of the applied and adapted uses after the implementation of Patches or Upgrades.

     Metaways will inform the customer about the implementation of Patches or Upgrades by means of an Email address, already known to him within plenty of time.

Metaways has the right to implement critical security Patches or Upgrades without previous informing of the customer as well, in order to guarantee the security of the services offered by Metaways. Metaways will then inform the customer about the implementation of critical security Patches or Upgrades by means of an Email afterwards. It is not the responsibility of Metaways to guarantee the function ability of the by the customer previously applied and adapted uses, after the implementation of Patches or Upgrades.

This does not concern the hardware provided by the customer. He must take the responsibility for ensuring it's function ability. The only exception can be that Metaways is responsible for the function ability of the hardware, if this has been expressly agreed upon in writing, and the hardware has been installed by Metaways. If the hardware has been provided in a functioning condition, the customer must assume liability for further risks. Furthermore the customer is strictly responsible for the installation of software, the only exception being if any previous agreements stating otherwise have been made.

6. Metaways cannot guaranty that the software previously installed by the customer is compatible with the components supplied. Metaways is also not obliged to ensure such compatibility. Any continuative services will only become subject matter of the contract if expressly agreed upon.

7. Any associated operating instructions or manuals do not have to be provided in hard copy, but may also be provided in soft format. The customer is then at liberty to print out the existing manual.

8. Metaways shall only assume the role of intermediary with domain name registration services, e.g. DENIC or InterNIC.

Procuring and maintaining the domain is the subject matter of the contractual relationship between the customer and the respective registration services. Metaways has no influence over the allocation of the domain and its nature, and therefore accepts no liability in this respect.

9. With regard to products delivered by instructed third parties (so-called mail order), the risk passes to the customer, as is the case with regard to the incidental destruction of the product when the product is passed to the person assigned with transportation. This also applies to any handover even in default of acceptance when no actual handover takes place.

§ 7   Reservation of Title

1. Metaways retains the title of all products purchased until receipt of full payment from the customer.

2. With regard to sales contracts with a business customer, the title is retained on all products until all outstanding demands on the customer within those continuous business relations have been settled.

§ 8   Licenses

1. The sole holder of rights to the products covered by the contract is strictly Metaways.

2. Metaways may provide third parties, whom it has commissioned with the sale of the products, with the product rights.

3. Metaways shall make non-transferable and non-exclusive right of use available to the customer. "Program" in this sense is the original version, copies thereof and parts of the program associated with other programs. This encompasses machine-readable commands, audio-visual content and enclosed licensing material.

4. Should the customer purchase multiple licenses, the attached terms of use shall apply to each individual license.

5. Should the licensing administration program control access to a supplied program, the customer is permitted to install copies of this program on multiple computers which are to be administered by the aforementioned program. However, this remains restricted to the total number of agreed permitted users or agreed resources.

6. The license fees charged by Metaways are based on frequency of use, the resources used or an accumulation of the two.

§ 9   Program Usage

1. The customer is liable for ensuring the program is used in line with the licensing terms.

2. Use of the program is only permitted on one computer at any one time. The customer may not make multiple use of the same program at the same time, whereby use means the program is either installed in the central memory of the computer or any other form of storage media. This does not included programs intended for use in a variety of locations. These may be stored on a central computer or another portable computer. However, the provision regarding single use at any one point in time remains.

3. The program may not be used merely for distribution on a network server.

4. The customer is prohibited from:

    - using the programs in any other way than that intended in these Terms and Conditions;

    - copying, amending or transferring the programs in any other way than that intended in these Terms and Conditions;

    - letting, leasing or distributing licenses of the programs;

    - amending the programs in such a way that they produce other forms of expression (reverse assemble, reverse compile);

    - translating the programs into another form, unless such a translation is unavoidable and required by law.

§10 Termination of the Right of Use

1. The customer may terminate the right of use either on a previously agreed date or by notice of cancellation. In the event of termination, the customer is to surrender the following to Metaways:

    - all programs provided by Metaways and any potential copies thereof;

    - all documentation and marketing aids provided by Metaways;

2. All programs without specific obligation to be retained for record-keeping purposes are to be deleted by the customer from his storage media.

3. Other contractual obligations towards Metaways remain in force even after the right of use has been terminated.

§ 11 Conditions of Pricing, Payment and Default

1. The payments owed by the customer should be made to a Metaways account immediately on receipt of the invoice. Payment should be made within the period specified on the credit note.

2. The agreed prices are strictly fixed prices.

3. However, Metaways is entitled to raise the prices provided notification of the increase is given six weeks in advance. The customer has the opportunity to appeal against the notified increase within the specified period.

    In the event of a timely appeal, the contractual relationship may be terminated by either party within a period of one month from month end.

    Should the customer fail to make an appeal or a timely appeal, the contractual relationship shall continue in line with the amended terms.

4. The agreed prices may be suitably amended by Metaways in light of an increase in VAT or similar events. Should the terms be amended during an accounting month, the variation in price shall be billed for separately.

6. Should the customer be in default of payment, Metaways will charge interest on arrears on the outstanding payments at the statutory rate.

    Furthermore, Metaways is at liberty to claim additional damages for the delay.

7. As a result of fruitless warnings, Metaways is entitled to stop the contracted services and to block the customer's Internet access, e-mail account and web-site. These measures do not exempt the customer from the continuing duty of payment.

8. The customer may then only offset Metaways with its own demands if these are recognised or legally justified.

9. A relinquishment of claims against Metaways to third parties is excluded unless Metaways has agreed to the relinquishment in writing.

10. The right of retention of the customer shall then only be valid if the customer's right is based on the same legal relationship as the claims of Metaways.

§ 12   Warranty

1. Should faults occur with Metaways products, the customer is obliged to:

    -   document and record the faults or error messages,

    -   carry out a problem analysis as per the operation manual;

    -   report faults in writing to Metaways: for consumers within two months of the fault occurring, and for business customers within two weeks. Should the customer not meet this deadline, his warranty rights are voided. This is subject to a warranty period of two years for consumers and one year for business customers. This does not affect any manufacturers' warranties.

    -   if Metaways undertakes the elimination of the error, back up his own data or remove it if required for the rectification of the fault.

2.   Metaways accepts no warranty for faults caused by factors over which it has no influence. This specifically includes external factors beyond the control of Metaways, operator error, improper modifications to the products and all other manipulations undertaken by the customer.

3.   Wear and tear of basic equipment components is not included in the defect warranty.

§ 13   Rights of Third Parties

1.   Should Metaways breach a German commercial trademark or copyright law, the customer shall be absolved of any sanctions against him such as imposed costs or compensation for damages. These shall be borne by Metaways if the customer informs Metaways immediately in writing of the existence of such measures and Metaways is provided with all technical and legal counter and compensatory measures.

2.   The aforementioned obligations of Metaways do not apply if the sanctions are due to the fact that the customer has modified the products supplied by Metaways or used them in conjunction with his own products.

3.   In the event of one of the aforementioned laws being breached or a similar event, Metaways is entitled to block the domain concerned and rework the presence or have it reworked.

§ 14   Liability

1.   Metaways is only liable - from whatever legal perspective - if the damage:

a) has been caused by a culpable breach of a contractual obligation in a way which would damage the purpose of the contract, or

b) can be attributed to gross negligence or willful intent by Metaways.

2.   The extent of the liability of Metaways is in either case limited to the damages which Metaways could typically expect to incur on conclusion of contract based on the circumstances known at the time. Metaways is not liable for indirect damages, consequential damages or lost profit. In any case, the maximum amount the customer may claim for damages is limited to the compensation for each of the contracts underlying the claim.

3.   The liability limitations logically also apply in favour of Metaways employees and authorised representatives.

4.   Metaways is not responsible for the content of any web-sites linked to the customer's presence and accepts no liability therefor.

§ 15   Data Protection

1.   Unless the customer expressly consents, Metaways is only authorised to process and use personal data for the purposes absolutely necessary for the fulfillment of the contractual relationship.

2.   By way of precaution, it is expressly stated that it is impossible to guaranty complete data protection on the Internet. The customer is once again informed herein, that his provider is technically capable of seeing the customer's personal data on the server. Third parties are therefore also able to do so under certain circumstances. It is therefore stated yet again

herein that the customer is obliged to protect his own data.

§ 16   Termination

1.   Both contractual parties are entitled to terminate the contract in writing on completion of the agreed minimum duration within a period of four weeks from month end. The right to an exceptional termination without notice remains unaffected.

Contracts with a duration of twelve months, concerning the use or hosting of Domains and/or SSL Certification, unless otherwise agreed upon, will be closed. Should the contract be limited to a definite period of time, or if a minimal contractual duration has been agreed upon with the customer, the contract is automatically extended by the agreed upon period of time or minimum duration, however at least by one year if the contract is not terminated within a time limit of three months until the date of expiration of the Domain or of the SSL Certificate. The invoicing for the services takes place on a monthly basis.
Metaways is entitled to terminate contracts in which a duration or a minimal contractual duration of twelve months is stated, within a period of four weeks until the end of the following month.

2.   Metaways is entitled to the right to an exceptional termination without notice in the following circumstances:

-    the customer culpably breaches the contractual terms and conditions or guidelines;

-    the customer is in default of payment to an amount greater than a minimum of two monthly installments;

-    the customer changes his address without informing Metaways within the four week period of this fact and the new address;

-    the customer breaches the ban on the presentation of certain content listed in § 4.

3.   Termination without notice occurs strictly following prior warning to the customer, unless the customer's offences are so serious that Metaways views a continuation of the contractual relationship as unreasonable.

4.   In the event of an exceptional termination without notice, Metaways has the right to request ¾ of the sum of all monthly remuneration which the customer would still have had to pay in the period of a regular termination. Metaways is also entitled to block the customer's account.

§ 17   Final provisions

1.   The sole place of payment and deliveries is the registered office of Metaways.

2.   Should both contractual parties be registered traders, the exclusive jurisdiction for all disputes arising directly or indirectly from the contractual relationship is Hamburg. However, Metaways has the right to bring action against the customer in its general place of jurisdiction.

3.   The customer is aware that personal data will be stored and processed by Metaways in relation to the contractual negotiations and business transactions. The customer renounces notification in accordance with BDSG (German Data Protection Act).

4.   Amendments or additions to contracts concluded between Metaways and the customer must

be made in writing. This also applies to any waiver of the requirement of the written form.

5.   Should any provisions of these T&Cs be ineffective, the effectiveness of all other provisions remains unaffected. The contractual partners will work together to replace such regulations with ones which would correspond as closely as possible to the ineffective provisions. Should an ineffective clause contain an effective, reasonable part, this should be retained. The parties are already obliged to find a replacement regulation which would come as close as possible to producing the same commercial results as the omitted clause.